

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

Vol. 17

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THE DEPARTMENT OF THE TREASURY  
U.S. Customs Service

## **NOTICE**

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 83-54)

### Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587.

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: March 2, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Al-Ways Air Freight, Inc., an IL Corp., 830 Supreme Dr., Bensenville, IL; air freight forwarder; American Manufacturers Mutual Ins. Co.	Jan. 31, 1983	Feb. 3, 1983	Chicago, IL \$100,000
American Cargo Express Ltd., 4101 San Jacinto, Houston, TX; motor carrier; Old Republic Ins. Co. D 2/7/83	June 26, 1981	July 1, 1981	Houston, TX \$25,000
Atkinson Intermodal Systems, Inc., 144 Pennsylvania Ave., Kearny, NJ; motor carrier; The Aetna Casualty & Surety Co.	July 23, 1982	Jan. 26, 1983	Newark, NJ \$50,000
Bay State Express Co., Inc., 50 Terminal St., Charlestown, MA; motor carrier; Peerless Ins. Co.	Oct. 21, 1982	Oct. 21, 1982	Boston, MA \$25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Bel's Produce Co., Inc., 11357 W. Vienna Rd., Montrose, MI; motor carrier; St. Paul Fire & Marine Ins. Co. (PB 12/26/80) D 1/12/83	July 29, 1982	Jan. 12, 1983	Laredo, TX \$25,000
Bonney Motor Express, Inc., Rt. 460, P.O. Box 305, Windsor, VA; motor carrier; Integon Indemnity Corp. (PB 5/12/81) D 2/1/83 <sup>1</sup>	Jan. 31, 1983	Feb. 1, 1983	Norfolk, VA \$25,000
Cardinal Container Inc., 500 Nordhoff Pl., Englewood, NJ; motor carrier; St. Paul Fire & Marine Ins. Co.	Jan. 18, 1983	Jan. 24, 1983	Newark, NJ \$50,000
Dixie Carriers, Inc., P.O. Box 1537, Houston, TX; water carrier; Hartford Accident & Indemnity Co. (PB 2/8/68) D 1/24/83	Dec. 28, 1982	Jan. 24, 1983	Houston, TX \$50,000
Drue Chrisman, Inc., U.S. 50 West, P.O. Box 264, Lawrenceburg, IN; motor carrier; Employers Ins. of Wausau	Jan. 13, 1983	Feb. 3, 1983	Cleveland, OH \$50,000
Eastwood Carriers—See Popko Trucking Inc.			
Evans Transportation Co., Inc., 7800 Rt. #13, Levittown, PA; motor carrier; American Motorists Ins. Co.	Jan. 19, 1983	Jan. 26, 1983	Phila, PA \$25,000
FFE Transportation Services, Inc., P.O. Box 225888, Dallas, TX; motor carrier; Reliance Ins. Co. (PB 2/7/72) D 1/24/83 <sup>2</sup>	July 7, 1982	Jan. 24, 1983	Houston, TX \$25,000
Wilbur G. Frazier, Sr. & Wilbur G. Frazier, Jr., 1500 So. Zarzamora, Rm. 110, San Antonio, TX; motor carrier; National Surety Corp. (PB 10/26/72) D 2/3/83 <sup>3</sup>	Oct. 26, 1982	Feb. 3, 1983	Laredo, TX \$25,000
Glendorch Enterprises Inc., T/A: Glenair Freight Co., P.O. Box 8625, B.W.I. Airport, MD; freight forwarder; Fireman's Fund Ins. Co.	Jan. 19, 1983	Jan. 31, 1983	Balt., MD \$50,000
Hill & Hill Truck Lines, P.O. Box 9698, Houston, TX; motor carrier; Lawyers Surety Corp. D 2/7/83	Mar. 1, 1980	Apr. 3, 1980	Houston, TX \$25,000
Interstate System Steel Division Inc., P.O. Box 412, Murrysville, PA; motor carrier; Travelers Indemnity Co.	Jan. 2, 1983	Jan. 24, 1983	Pittsburgh, PA \$25,000
Kleyzen Transport Ltd., 1495 Pembina Hwy., Winnipeg, Manitoba, Canada; motor carrier; Transamerica Ins. Co.	Nov. 15, 1982	Feb. 4, 1983	Seattle, WA \$25,000
Metropolitan Trucking, Inc., 75 Broad Ave., Fairview, NJ; motor carrier; St. Paul Fire & Marine Ins. Co.	Sept. 14, 1982	Jan. 26, 1983	Newark, NJ \$150,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Midwest Emery Freight System, Inc., Joliet Rd. & 1st Ave., McCook, IL; motor carrier; Heritage Ins. Co. of America (PB 10/30/81) D 1/26/83 <sup>5</sup>	Oct. 30, 1982	Jan. 26, 1983	Chicago, IL \$50,000
Open Road Express, Inc., 40 Lafayette St., Newark, NJ; motor carrier; Peerless Ins. Co.	Jan. 28, 1983	Feb. 1, 1983	Newark, NJ \$50,000
Penn's Best Inc., P.O. Box 2301, Elizabeth, NJ; motor carrier; Utica Mutual Ins. Co.	July 26, 1982	Aug. 30, 1982	Newark, NJ \$50,000
Pioneer Trucking, Inc., P.O. Box 849, Taylor, MI; contract motor; American Casualty Co. of Reading, PA D 1/24/83	June 11, 1982	July 28, 1982	Detroit, MI \$50,000
Popko Trucking Inc., div. of: Eastwood Carriers, 250 Union St., Westfield, MA; motor carrier; St. Paul Fire & Marine Ins. Co.	Oct. 26, 1982	Jan. 18, 1983	Phila, PA \$50,000
Ro-Mar Terminal & Warehouse Co., Inc., 3710 S. California Ave., Chicago, IL; motor carrier; National Surety Corp.	Jan. 25, 1983	Jan. 31, 1983	Chicago, IL \$35,000
South End Cartage Corp. of DE; 4222 S. Knox, Chicago, IL; motor carrier; National Surety Corp. (PB 1/19/82) D 1/24/83 <sup>6</sup>	Jan. 19, 1983	Jan. 24, 1983	Chicago, IL \$35,000
Terminal Consolidation Co. of Springfield, Inc., d.b.a.: Terminal Consolidation & Springfield Piggyback, 2367-AA East Kearney, Springfield, MO; motor carrier; Peerless Ins. Co.	Jan. 1, 1983	Jan. 24, 1983	St. Louis, MO \$50,000
Transload & Transport, Inc., P.O. Box 1874, Morgan City, LA; water carriers; St. Paul Fire & Marine Ins. Co. D 1/21/83	June 10, 1977	June 15, 1977	New Orleans, LA \$50,000
Van Diest Trucking, Inc., 250 W. First St., Claremont, CA; motor carrier; South Carolina Ins. Co.	Nov. 30, 1982	Jan. 27, 1983	Los Angeles, CA \$50,000
Williamson Truck Lines, Inc., Wilson, NC; motor carrier; U.S. Fidelity & Guaranty Co. D 1/24/83	Jan. 25, 1974	Feb. 26, 1974	Wilmington, NC \$25,000

<sup>1</sup> Surety is United National Ins. Co.<sup>2</sup> Principal is Frozen Food Express, Inc.<sup>3</sup> Principal is Wilbur G. Frazier, Sr. & Wilbur G. Frazier, Jr., d.b.a. W. G. Frazier & Son.<sup>4</sup> Surety is American Druggists Ins. Co.<sup>5</sup> Surety is American Druggists Ins. Co.<sup>6</sup> Surety is Northwestern National Ins. Co. of Milwaukee, WI.

BON-3-03

**MARILYN G. MORRISON,**  
*Director,*  
*Carriers, Drawback and Bonds Division.*

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(T.D. 83-55)

Change of practice relating to the tariff treatment of moon boot shells imported with removable felt liners

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Change of Practice.

**SUMMARY:** This document changes the current established and uniform practice of separately classifying moon boot shells imported with an equal number of removable felt liners. Customs will now treat these articles as tariff entities pursuant to the doctrine of entireties, dutiable under various provisions of Schedule 7, Part 1, Subpart A, Tariff Schedules of the United States (TSUS). This change is based on Customs finding that the shells and liners are intended to be used as a unit and their individual identities are subordinated to the identity of the combined article.

**EFFECTIVE DATE:** June 7, 1983.

**FOR FURTHER INFORMATION CONTACT:** Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8181).

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

By notice published in the Federal Register on January 25, 1982 (47 FR 3375), Customs solicited public comments regarding: (a) The interpretation of a provision in the Tariff Schedules of the United States (19 U.S.C. 1202) pertaining to imported footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper; and (b) whether Customs should change its uniform and established practice of classifying shells for "moon boots", a type of footwear, imported with an equal number of removable liners as separate entities, dutiable individually, or whether the shells and liners should be classified as tariff entities pursuant to the doctrine of entireties. Interested parties were given until March 26, 1982, to submit comments on the proposal. Pursuant to a request to extend the period of time for the submission of comments, Customs published a notice in the Federal Register on March 22, 1982 (47 FR 12194), extending the period of time to April 26, 1982.

Because of the numerous substantive and conflicting comments received in response to the more significant issue of question (a) relating to "foxing", it is being treated separately from question (b) relating to moon boot shells and liners. The foxing issue will be the subject of another document to be published in a future Federal Register.

As indicated in the notice, moon boots are footwear which extend above the ankle and are designed to be worn over, or in lieu of, other footwear to protect against water, cold, or inclement weather. They may be imported as completed articles or the shells and liners may be imported unattached to be joined after importation to form the finished product.

In Customs Ruling No. 062041 dated August 6, 1979, Customs held that imported moon boot shells with separable liners are not entireties for tariff purposes, but rather are classifiable separately. This ruling was in accordance with the previous determination published in the Customs Bulletin as T.D. 67-118(7) in which Customs held that a removable felt liner imported with a boot is classifiable as a separate tariff entity.

Based upon Customs August 6, 1979 ruling, and liquidations covering entries of the same merchandise at various ports, an established and uniform practice of classifying imported moon boots with an equal number of removable liners as separate articles exists within the meaning of section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)).

However, in the case of *Donalds Ltd., Inc. v. United States*, 32 Cust. Ct. 310, C.D. 1619 (1954), in discussing the doctrine of entireties, the court stated that "if there are imported in one importation separate entities, which by their nature are obviously intended to be used as a unit, or to be joined together by mere assembly, and in such use or joining the individual identities of the separate entities are subordinated to the identity of the combined entity, duty will be imposed upon the entity they represent." It is this principle upon which Customs proposal to treat moon boot shells and liners as entireties is based.

#### ANALYSIS OF COMMENTS

Eleven comments were received in response to the proposed change of practice. Ten of the commenters were in favor of the proposal and one was opposed to the change.

The commenter opposed to the change argued the following:

(1) The emphasis of the judicial determinations in this field is on separate function, use, and identity of entities in a combination. With respect to "moon boot removable liners", the function of the liners is distinguishable from the function of the boot. Liners provide extra warmth and comfort while boots themselves provide protection against the elements.

(2) Liners possess a separate use and are complete in themselves in that they are capable of and are used as a slipper type of footwear worn indoors.

(3) Liners maintain their separate identity even though imported and sold with moon boots.

(4) Although not normally sold separately at retail, liners can be purchased separately by the consumer.

The commenters in favor of the proposal made the following points:

(1) Moon boot shells and their liners are clearly designed to be used as a unit. The moon boot shell is incomplete without the lining. Absent the lining the inner stitching of the shell is typically exposed and the inner sole of plastic is uncushioned. Without the lining the cold weather protective qualities of the shell are inadequate.

(2) The liners have no function apart from the shell other than perhaps incidentally as a makeshift foot warmer.

(3) The general practice in the trade is to purchase liners in numbers equal to the number of shells produced.

(4) Moon boot liners are purchased, packed, shipped, invoiced, imported, advertised, and retailed as units with moon boots shells.

(5) Typical moon boot liners are unsuited for separate use by reason of their lack of durability, by their texture, and appearance.

(6) Moon boot importers do not trade in liners separately.

(7) Moon boot shells and their separable liners have no viable separate identity, except in combination with each other.

(8) Moon boot liners are not designed to be worn around the house as a slipper, rather they are intended to facilitate drying of perspiration and any moisture which may have leaked into the boot.

(9) Moon boot shells and liners function only as an entirety and each piece has no function other than its use in the combined moon boot.

After review of the comments, it is clear that the shells and liners involved are intended to be used as a unit and their separate identities are subordinated to the identity of the completed moon boot. Consequently, shells and liners are considered entireties within the principle set forth in the *Donalds* case, *supra*.

#### CHANGE OF PRACTICE

After careful analysis of the comments and further review of this matter, Customs practice of separately classifying moon boot shells with an equal number of liners is clearly erroneous. Accordingly, the proposal to treat these articles as tariff entities pursuant to the doctrine of entireties, dutiable under various sections of Schedule 7, Part 1, Subpart A, TSUS, is adopted. This change of practice shall be effective as to merchandise entered or withdrawn from ware-

house for consumption on or after 90 days from the date of publication of this notice in the Federal Register.

Treasury Decision 67-118(7) and Customs ruling of August 6, 1979 are revoked, to the extent that they are inconsistent with this decision.

#### DRAFTING INFORMATION

The principal author of the document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Dated: August 13, 1982.

ALFRED R. DE ANGELUS,  
*Acting Commissioner of Customs.*

[Published in the Federal Register, March 9, 1983 (48 FR 9982)]

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#### (19 CFR Part 19)

(T.D. 83-56)

#### Fee To Establish Container Stations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to authorize Customs to implement a fee schedule to establish a container station. It provides that such a fee schedule will be published periodically to revise this fee to reflect increased costs. It also requires that a fee, which will remain in effect until revised, must accompany any new application to establish a container station after the effective date of this document.

These fees are necessary because a Federal agency is required to charge appropriate fees to recover the costs of services provided by that agency.

EFFECTIVE DATE: April 8, 1983.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5354).

#### SUPPLEMENTARY INFORMATION:

#### BACKGROUND

Under 31 U.S.C. 9701, a Federal agency is required to charge appropriate fees to recover the costs of services provided by that agency. The fees must be fair and based on the costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts.

Although imported merchandise ordinarily is subject to entry and the payment of duty at the time and place the merchandise arrives in the United States, entry and payment of duty may be postponed in certain circumstances. For example, merchandise may be removed from the place of arrival to a container station before entry and the payment of duty.

A container station is a secured area within the United States into which containers of merchandise may be moved for the purpose of opening the container and delivering the contents before any entry is filed or duty is paid. A container station is important because it serves as a central location at a port for processing containerized merchandise which otherwise could not be handled timely at the dock, wharf, pier, or bonded carrier's terminal. Sections 19.40 through 19.49, Customs Regulations (19 CFR 19.40-19.49), provide the procedure for the establishment and use of container stations.

Section 19.40, Customs Regulations (19 CFR 19.40), provides that a container station, independent of either the importing carrier or bonded carrier, may be established at any port or other area under the jurisdiction of a district director of Customs. To establish a container station, an application must be filed with, and approved by, the district director. However, even though the administrative costs to Customs to process the application are similar to an application to establish a bonded warehouse, no fee is presently required to accompany the application.

Before an application may be approved, Customs must—(1) Determine that the application is in proper form; (2) Survey the premises to determine that all physical requirements are met; (3) Perform a background investigation of the applicant and the applicant's officers and employees; (4) Prepare a report of that investigation; and (5) Review the application, survey, and background investigation report and prepare a response to the applicant.

#### PROPOSED RULE

On July 10, 1980, a notice was published in the Federal Register (45 FR 46442) proposing to amend sections 19.2, 19.3, 19.40, and 24.12, Customs Regulations (19 CFR 19.2, 19.3, 19.40, 24.12)—(1) To delete the reference in section 19.2(a) to the \$80 fee required to accompany an application to establish a Customs bonded warehouse; (2) To provide in section 19.3(a) for a fee to accompany an application to alter a Customs bonded warehouse; (3) To provide in section 19.40 for a fee to accompany an application to establish a container station; and (4) To provide in section 24.12(a) for publication of a general notice in the Federal Register and the Customs Bulletin on or about August 31 of each year which will establish the fees for the next fiscal year.

The notice indicated that the fee schedule will be based on the actual current costs to Customs of processing an application to es-

tablish or to alter a Customs bonded warehouse, or to establish a container station. These costs are related closely to Customs employees' salaries and, therefore, are subject to change annually.

Interested parties were given until September 8, 1980, to submit written comments regarding the proposal.

#### DISCUSSION OF COMMENTS

One comment was received regarding the proposed changes. The commenter suggested that when a general notice setting the fees for services provided is published in the Federal Register, Customs provide for "the submission of comments on the fairness of the fees proposed to be charged and that such comments be given consideration before the final establishment of fees."

As indicated above, the fee schedule will be based on the actual current costs to Customs of processing an application to establish a container station. The costs are directly related to the salary of each Customs officer performing the service and, therefore, are subject to change annually. Therefore, Customs believes it is inappropriate to entertain comments on the fairness of the fees on an annual basis as this would merely result in additional administrative expenses and delay in processing the general notice. Of course, Customs will consider any suggestions received to improve upon the procedures established by this document, including the fee structure.

#### OTHER CHANGES

Upon its review, Customs has made changes in the proposed amendment. The notice proposed to amend the Customs Regulations to increase the fee that must accompany an application to establish a bonded warehouse, and to require a fee to accompany an application to alter an existing bonded warehouse or to establish a container station. However, this document pertains only to container stations. Fees relating to bonded warehouses were included in a separate document concerning changes in the supervision of those warehouses which was published in the Federal Register on November 1, 1982, as T.D. 82-204 (47 FR 49355). Therefore, only section 19.40 is amended by the document. It is noted that this section was amended by T.D. 82-135, published in the Federal Register on July 27, 1982 (47 FR 32414), to provide that bonded carriers may transport containerized cargo in-bond to container stations at ports of destination.

The notice advised that a general notice would be published in the Federal Register and Customs Bulletin on or about August 31 of each year which would establish the fee for the next fiscal year.

This document amends the Customs Regulations to authorize Customs to implement a fee schedule to establish a container station. It provides that a general notice shall be published in the Federal Register and Customs Bulletin setting forth a fee schedule to

be revised periodically to reflect increased costs to establish a container station. It also requires that a fee of \$852.00 must accompany any new application to establish a container station after the effective date of this document. This fee will remain in effect until revised.

#### EXPLANATION

Customs has determined that the service to establish a container station is provided by the following Customs officers:

1. Clerk in the fifth step of a GS-5;
2. Inspector in the fifth step of a GS-11 (performing physical security);
3. Agent in the fifth step of a GS-12 (performing the investigation);
4. Administrator in the fifth step of a GS-13.

The fee charged for the service would be based upon the amount of time the service requires of each of the above Customs officers and equal the sum of individual charges plus a charge for mileage incurred by the applicable Customs officer in using a vehicle to visit the premises to perform his respective task. The average mileage associated with performing the necessary tasks is 60 miles. Currently, mileage costs are reimbursed at 20 cents per mile.

The (1) estimated length of time reflected in the fee schedule required by each of the above Customs officers to perform his or her respective service; (2) the adjusted hourly rate of pay utilized which is 137 percent of the hourly rate of pay of the respective Customs officer; (3) the charge of each respective service based on the hourly rate of pay of each Customs officer performing his or her respective service; and (4) the total fee for the service rendered rounded off to the nearest dollar follow:

#### FEE TO ESTABLISH A CONTAINER STATION

Customs officer	Time in hours	Adjusted hourly rate	Individ- ual charge
1. Clerk .....	5	\$9.98	\$49.90
2. Inspector .....	14	18.28	255.92
3. Agent .....	22	21.92	482.24
4. Administrator .....	2	26.07	52.14

Therefore, the total fee to establish a container station is \$852.00 (\$840.00 for Customs officers fee plus \$12.00 for mileage).

Section 24.17(d), Customs Regulations (19 CFR 24.17(d)), provides the computation for regular compensation for reimbursable charges. The charge shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular em-

ployee. The ratio of the annual number of working hours charged to Customs appropriation to the net number of annual working days is 137 percent.

#### INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, relating to the Regulatory Flexibility Act, because it was the subject to a notice of proposed rule-making published in the Federal Register before January 1, 1981, the effective date of the Act.

#### EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

#### DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

#### LIST OF SUBJECTS IN 19 CFR PART 19

Customs duties and inspection, imports, freight, container stations.

#### AMENDMENT TO THE CUSTOMS REGULATIONS

Part 19, Customs Regulations (19 CFR 19), is amended as set forth below.

ALFRED R. DE ANGELUS,  
*Acting Commissioner of Customs.*

Approved: February 17, 1983.

JOHN M. WALKER, JR.,  
*Assistant Secretary of the Treasury.*

[Published in the Federal Register, March 9, 1983 (48 FR 9853)]

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#### PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

Section 19.40, Customs Regulations (19 CFR 19.40), is amended by designating the existing text as paragraph (a), revising that introductory text of newly designated paragraph (a), and adding a new paragraph (b) after the bond format to read as follows:

**19.40 ESTABLISHMENT OF CONTAINER STATIONS.**

(a) A container station, independent of either the importing carrier or bonded carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor, accompanied by the fee required by paragraph (b) of this section, and its approval by the district director. The applicant also must post a bond in the following format in the sum of \$25,000 or such larger amount as the district director shall determine:

\* \* \* \* \*

(b)(1) Customs shall charge a fee to establish a container station, and publish a general notice in the Federal Register and Customs Bulletin setting forth a fee schedule, to be revised periodically to reflect increased costs, to establish the container station. The published revised fee schedule shall remain in effect until changed.

(2) The fee, rounded off to the nearest dollar, shall be calculated in accordance with section 24.17(d) of this chapter. The fee shall be based upon the amount of time the average service requires of the Customs officers performing the services.

(R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624); 96 Stat. 1051 (31 U.S.C. 9701))

# U.S. Customs Service

## *Proposed Rulemaking*

19 CFR PARTS 4, 6, 7, 10, 11, 12, 18, 19, 22, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, 174

### Proposed Revision of the Customs Bond Structure

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes extensive amendments to the Customs Regulations to revise the current bond structure by consolidating and reducing the number of bond forms now in use. The purpose of the proposal is to simplify transactions between Customs and the importing public and to facilitate establishment of an efficient computerized bond control system.

DATES: Comments must be received on or before (90 days from the date of publication in the Federal Register).

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: Joseph C. Goody, Regulatory Audit Division (202-566-2812). Legal Aspects: William Rosoff, Carriers, Drawback and Bonds Division (202-566-5856). Legal and Operational Aspects Relating to Delinquent Sureties: Ron Gerdes, Office of Chief Counsel (202-566-2482), U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

### SUPPLEMENTARY INFORMATION:

#### BACKGROUND

When merchandise other than noncommercial merchandise accompanying a traveler arrives in the United States, it ordinarily remains in Customs custody until the importer, consignee, or the authorized agent of either establishes ownership and complies with the applicable Customs laws and regulations or laws and regula-

tions enforced by Customs for other Federal and state agencies. In some instances, especially in the case of duty-free noncommercial importations, the merchandise may be released to the importer, consignee, or an authorized agent merely upon furnishing proof of ownership, and no formal documentation is required. However, in most cases involving commercial importations, formal documentation is required to obtain release of the merchandise. The Customs transaction releasing the merchandise to the importer is referred to as an "entry".

As a part of the entry documentation the importer, consignee, or an authorized agent usually is required to file a bond with Customs. The bond, among other things, guarantees that proper entry summary, with payment of estimated duties and taxes when due, will be made for imported merchandise and that any additional duties and taxes subsequently found to be due will be paid. The bond also guarantees redelivery of imported merchandise to Customs custody for examination or inspection if found not to comply with applicable laws and regulations. Redelivery may be required as a result of a failure to properly mark, label, clean, or fumigate the imported merchandise; or a failure to destroy or export the imported merchandise, if appropriate.

A bond also may provide, as a condition of its satisfaction, for the production of any missing invoices, declarations, certificates, or other documents required in connection with the entry of imported merchandise, in the form and within the time required.

Bonds are used to secure other Customs transactions besides those of importers. For example, carriage of imported merchandise that has not been examined or appraised by Customs must be secured by a Customs bond to guarantee performance of various Customs obligations. Those performance bonds are required from bonded carriers, bonded cartage and lighterage operators, and persons who are authorized to carry merchandise when bonded carrier facilities are not reasonably available. Among other things, those persons are contractually bound to safely deliver that merchandise to Customs at the destination. They are also bound to report arrival of the merchandise to Customs at the destination so that it can be examined for Customs purposes. Further, they are bound not to deliver that merchandise to the ultimate consignee until Customs determines that it can be released. If the bond principal fails to perform as agreed, the principal and surety become liable to Customs for payment of liquidated damages.

A similar situation exists for operators of Customs bonded warehouses, container stations, and foreign-trade zones. A bond is needed to protect the Government from any loss as a result of the operation. Generally, imported merchandise is placed in such places before the amount of duty due has been determined. Moreover, until that merchandise is withdrawn for consumption no duty is paid by the importer. The bond given by the operators serves as

a guarantee that the stored merchandise will be kept safely and that it will be released only when authorized by Customs.

Other bonds are required in special instances. For example, persons who use the accelerated drawback program are required to file a bond to guarantee repayment of any money paid in excess of what is finally determined to be due. Another special bond is that required of copyright owners who claim that an imported article infringes their copyright and requests Customs to detain that article pending a final determination on the infringement claim. That bond insures that any damage caused to the importer by detention will be reimbursed.

Presently, there are approximately 50 different forms of Customs bonds and 16 bond riders in use (see Appendix E). Part 113, Customs Regulations (19 CFR Part 113), sets forth a description of the various bonds and the general requirements applicable to Customs bonds. It contains the general authority and powers of the Commissioner of Customs to require bonds, the classes of bonds, procedures for their approval and execution, general and special bond requirements, requirements which must be met to be either a principal or a surety, requirements concerning the production of documents, and the authority and manner of assessing damages and of cancelling the bond or charges against a bond.

In an effort to (1) modernize the current bond structure by reducing and consolidating the number of bond forms now in use, (2) modify the archaic bond language, (3) simplify transactions between Customs and the importing community, and (4) facilitate establishment of an efficient computerized bond control system, Customs published an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register on May 26, 1981 (46 FR 28172) to afford the public a meaningful opportunity to participate at an early stage in the revision process by submitting comments on the merits of the proposal and by suggesting alternatives to the proposed bond format, coverages, and conversion approaches. Numerous comments were received in response to the ANPRM. The comments overwhelmingly supported the revision concept. Before discussing the comments and the changes made as a result of those comments, a review of the proposal as set forth in the ANPRM may prove beneficial to a complete understanding of the concept and the comments received.

#### REVIEW OF ANPRM

Under the proposal as set forth in the ANPRM, two types of Customs bonds, designated "single transaction" and "multi-transaction", would have been established.

1. Single Transaction: The single transaction bond under the ANPRM was to be used for one transaction at a specific port under the same conditions as a single entry bond currently is being used

and would require the approval of the district director at the port where filed.

2. Multi-Transaction: The multi-transaction bond under the ANPRM was to replace present term, blanket and consolidated bonds and be used for many transactions over a definite period of time. It also was to replace the continual type bonds which cover conditions of a continuing nature, such as, carriage of merchandise and establishment of warehouses.

It was proposed that an amount associated with each condition referred to on the multi-transaction bond would represent the liability limit for that specific condition. It was anticipated that each condition would be self-contained and appear in a separate section or subsection of the regulations.

The bond contract was to remain in full force and effect for one year commencing on the effective date shown on the bond and for each succeeding annual period, or until terminated. Current Customs policy prohibiting the discontinuance of bond coverage before the end of the initial term unless good cause is shown and Customs concurs would not have been changed under the proposal.

At least 60 days before the bond anniversary date, Customs proposed to issue a courtesy notice advising the principal that the bond would terminate on the anniversary date unless the principal notified Customs by returning the notice, or otherwise advised Customs in writing, at least 30 days before the bond expiration date, of its intent to continue the contract. Thus, notification of premium payment on the bond would have been sufficient under the proposal to renew a bond contract for another term.

If a party to the bond contract intended to terminate the contract, that party would have been required to notify the other parties to the contract and Customs in writing at least 30 days before the effective date of the termination.

It was proposed to create two classes of coverage within the multi-transaction type bonds, the national class and the district class. The national class, at the option of the principal, would have included all or specific transactions of a particular principal on a nationwide basis. The district class, at the option of the principal, would have included all or specific transactions of a particular principal within one district. For example, term bonds which currently are filed on a port level would have been consolidated into one district bond. The conditions of this class of bond would have been the same as those of a national bond except that the scope of coverage would be limited to one district and the minimum amount of bond required would generally be less than the minimum amount required on a national bond. In keeping with Treasury Department directives and Customs policy, customhouse brokers would not have been approved as principals on a national class bond to be used in their capacity as brokers.

Under the proposal, there would have been one standardized bond form for the single transaction and multi-transaction bonds. A space would have been provided on the bond form where the conditions covered by the bond and the related surety liability limit would have been indicated. It was proposed that standardized conditions would be enumerated in the regulations and incorporated by reference into the bonds. This procedure would eliminate repeating the similar conditions contained in the various bonds.

In the ANPRM it was indicated that Customs Form 53, "Bond Transcript", would continue to be required in a modified form. Under the proposal Customs Form 53 would have been filed with each bond submitted for approval whether the bond was supported by surety, cash, or other acceptable security.

It was also indicated that based on the comments received and if Customs continuing analysis indicated it was feasible, the specific information unique to the Customs Form 53 might be incorporated into the proposed standardized bond form. If this approach was adopted the "Bond Transcript" would be discontinued.

Under the proposal, current Customs policy permitting the addition of principals to bonds and name and address changes after bond approval would not change. Any other bond contract change would require the termination of the old bond and filing of a new bond, as currently prescribed in section 113.23(d), Customs Regulations (19 CFR 113.23(d)).

It was indicated in the ANPRM that a computerized bond control system would be implemented in conjunction with the proposal. The number of bonds required by a principal to conduct Customs business would be reduced. Under the computerized system, data would be verified and validated, and computer files would be updated soon after a transaction was entered into the system via a terminal.

In the ANPRM it was proposed that each bond would be assigned a nine digit control number. The first two digits would identify the district where the bond was filed. The last seven digits would be a serial number control uniquely identifying the bond within the district plus a check digit. It was proposed that this bond number would appear on all copies of the bond, whether it was a Customs bond form or an approved privately printed bond form.

Two possible approaches for converting from the current system to the revised bond system were set forth in the ANPRM.

The first approach would have provided for a 90 or 120-day transition period during which all bonds would be terminated and replaced by bonds using the new format. Existing term-type or continual-type bonds not replaced by bonds using the new format would not be considered valid by Customs at the end of the 90 or 120-day transition period.

The second approach set forth in the ANPRM would have consisted of the following:

1. If a party had only a continual-type bond filed with Customs, a transition period would be provided during which a bond using the new format would be filed in accordance with the procedure stated in the first approach.

2. If a party had more than one term-type bond in effect, the expiration date of the existing bond with the latest termination date would become the replacement control date. Customs would announce the date principals would be required to determine the replacement control date. Applicable replacement control dates thus would be established for the entire importing community at the same time.

Once a replacement control date was established for an individual or firm, Customs would not approve any bond submitted under the old bond format when the term of that bond would be effective beyond the replacement control date.

3. If a party had a term and continual-type bond in effect, the continual-type bond would be terminated as of the replacement control date established for the term-type bond. A bond in the new format would be filed after the replacement control date.

#### DISCUSSION OF COMMENTS

In response to the ANPRM, numerous comments were received from individuals and organizations representing the full spectrum of the importing community. The commenters touched upon all aspects of the ANPRM. The overwhelming majority of the commenters were in favor of reform of the existing bond structure. There was not total agreement, however, on the best way to accomplished the reform. For discussion purposes, the comments have been grouped together topically as follows:

#### BOND POLICY

Two commenters requested that Customs reconsider its position which forbid use of a General Term bond by a customhouse broker in its brokerage business. One commenter agreed with the position set forth in the ANPRM that Customs should continue the policy of not allowing brokers to have a national type bond in their capacity as brokers. The policy which dates back to 1952 exists, in part, because the amounts for General Term Bonds are based on 10-percent of the importers prior year's duty payments. A broker, unlike an importer, can radically change its business by changing its clients. This could thus result in inadequate coverage during the current year. Another reason for not allowing brokers to have a national type bond is that a broker, unlike a corporation, often lacks sufficient assets to go against in case of a loss. Since under the proposal set forth in this document Customs will be in a better position to monitor bond sufficiency, the basis for continuing the policy appears to be unnecessary. Accordingly, Customs proposes to elimi-

nate the prohibition against brokers having a national type bond in their capacity as brokers.

A broker commented that in addition to district and national multi-transaction bonds, Customs should have port multi-transaction bonds. Another commenter recommended that brokers operating in less than all ports in a district list the ports they intend to serve on the bond. Two commenters recommended that the multi-transaction bond be on a port basis in lieu of a district level basis.

After a complete review of the comments and further evaluation of the bond system, Customs is of the opinion that no valid reason exists for having a bond limited by any geographic boundary. The rationale under the present bonding system for having port level bonds is the limited scope of control available under a manual bond system. However, in today's computerized environment this constraint is eliminated. Thus, to require the filing of the same bond document at each port or district in which a firm carries on business is an undue burden on the public. A bond which is good nationwide will reduce the number of bond forms required by Customs. This will be beneficial to all parties-in-interest by easing the burden of document control and recordkeeping, and facilitate the collection of information pertinent to particular bonds, principals or sureties. Accordingly, this document provides for a bond which is valid nationwide. The requirement for a nationwide bond will, in addition to reducing the number of bond forms that a party involved with Customs will have to file, eliminate the associated administrative time and cost burden associated with the existing port and district bonds. To require a broker to file, with its bond, a list of the ports in which it intends to conduct Customs business is not necessary. Providing this information is a function of broker licensing and thus is outside the scope of this proposal.

It should be noted that under the ANPRM Customs proposed both single entry and multi-transaction bonds. Under the ANPRM and this document the single transaction bond would be used for one transaction at a specific port under the same conditions as a single entry bond currently is being used. Bond approval authority would be with the district director unless delegated by the district director to the port director. This aspect has not been changed by this notice.

Under the ANPRM it was proposed that a multi-transaction bond would replace the present term, blanket, continual and consolidated bonds and be used for multiple transactions over a one year period of time. It was proposed that an amount associated with each condition referred to on the multi-transaction bond would represent the liability limit for that specific condition. It was anticipated that each condition would be self-contained and appear as a specific section in the regulations.

After a review and analysis of the comments received and further refinement of the proposal, the concept has been modified.

The bond, while still multi-transactional, will be a continuous bond and identified as a continuous bond. The bond will be on Proposed Customs Form 301, a sample of which can be found in Appendix A of this document. Once approved the continuous bond will be in effect until terminated (see section I, Appendix A). Bond conditions will be grouped by activity (see section II, Appendix A). An importer or broker, for example, will be required to have a continuous bond containing the "Basic Importation and Entry Bond Conditions" set forth in proposed section 113.62. To obtain the foregoing coverage an importer or broker will check off block 1 in section II of proposed customs Form 301. Generally, a principal will not, as proposed in the ANPRM, be able to check off multiple conditions with specific liability limitations for each condition. Exceptions exist for the "Repayment of Erroneous Drawback Payment Bond Conditions" (proposed section 113.65) and "Control of Containers and Instruments of International Traffic Bond Conditions" (proposed section 113.66). "Repayment of Erroneous Drawback Payment Bond Conditions" may be taken in conjunction with the "Basic Importation and Entry Bond Conditions (See activity codes 1 and 1a, section II, Appendix A). "Control of Containers and Instruments of International Traffic Bond Conditions" may be taken in conjunction with the "International Carrier Bond Conditions" (see activity codes 3 and 3a, section II, Appendix A).

One commenter raised an unrelated issue on canceling bonds securing temporary importations. The commenter was specifically concerned with the provisions of section 10.39, Customs Regulations (19 CFR 10.39) which states that merchandise entered temporarily under bond may not be entered for consumption without assessment of liquidated damages for breach of the bond. The change in procedure requested by the commenter would require a modification of the statute (item 864.05, TSUS, 19 U.S.C. 1202). Since the bond merely secures an importation made under the terms of the statutory provision the change requested is beyond the scope of this proposal.

One commenter stated that districts located on the northern U.S. border are authorized to accept bonds executed in Canada by Canadian surety companies so long as the company is licensed to operate a surety business in Canada. That commenter urged that the requirement for bonds executed in Canada be incorporated into the new bond format.

The existing Customs policy concerning acceptance of bonds executed in Canada is set forth in Customs Headquarters Circular BON-3-R:CD:D, dated July 20, 1976. This proposal will not change that policy. The circular states that it is permissible to accept bonds executed in Canada. Under the conditions set forth in the circular, the surety company must provide evidence that it is licensed to operate a surety business in Canada, and that it meets the general requirements established for all surety companies

doing business with the U.S. Government. In addition, the company must be authorized by the Treasury Department to act as surety on bonds executed in favor of the U.S. Government under 6 U.S.C. 6 *et seq.* and 31 CFR 233 *et seq.*

#### BOND FORM

One commenter recommended that the proposed consolidation of the present bonds be done on a gradual basis and initially only a few bonds included in the multi-transaction bond.

Over the years a number of Customs bonds were written in a piecemeal fashion in response to specific problems. This approach led to repetition of bond conditions in numerous bonds and repetition in other aspects of the bonding procedure. This repetition, while acceptable with a manually controlled bonding process, is unnecessary and unacceptable in a computerized environment. With this bond proposal Customs has a unique opportunity to completely modernize the bonding process at one time and take advantage of the current data processing state of the art. Such a comprehensive change in the bonding process would be complicated and made far more difficult for both Customs and the importing community if it were made in a piecemeal fashion.

Another commenter recommended that the bond conditions be printed on the bond form.

One of the objectives of this bond simplification project was to devise a form which could be printed on one piece of paper. Another objective of the project was to keep the bonding process simple. In an attempt to accomplish these objectives, all bond conditions have been placed in one part of the Customs Regulations (see proposed subpart G, Part 113 of this document). This provides an easily accessible reference to bond obligations and the consequences of failure to meet those obligations. This approach benefits both Customs personnel responsible for anyone of the various aspects of bonding and the import and export community which must satisfy the bonding requirements. In contrast, the current bond structure has this vital bond information located in the various files containing the bond contracts, various sections of the Customs Regulations, Treasury Decisions, and Customs Policy and Procedures Manual Issuances. In order to know what is current and available and locate this information an individual is required to have some degree of bond expertise. This will be minimized under the proposed revision. In addition, having the text of the bond conditions in one part of the regulations will be less costly for Customs to maintain and amend, should that become necessary. Further, Customs and the public will not have to destroy existing stocks of forms when bond conditions change as has been the case under the current structure in which the bonds have the actual bond conditions printed on the bond form.

**BOND FORMAT**

One commenter recommended that the current Customs bond form numbers which identify the existing bond forms be retained and incorporated into the proposed regulations to ease the transition to the new bond conditions.

Customs will not retain the current bond form numbers. These form identification numbers and forms will be eliminated as a part of Customs paperwork reduction objectives under the Paperwork Reduction Act. As stated, the new proposed Customs bond form will be Customs Form 301, a copy of which is set forth in Appendix A. To ease the transition to the new bond structure, Appendix B contains a cross reference listing existing bond forms and conditions, the proposed new bond conditions, reason for the bond conditions, statutory authority for the bond condition and related Customs Regulations.

Another commenter recommended that the bond form be in a one page format which will not impede the use of pin-fed paper stock as used by computers.

Customs has been mindful of the advantages of a one page form and the needs of computerized as well as non-computerized businesses. In consolidating the numerous bond forms into one form, there is an inherent space constraint. However, Customs believes that the proposed 8½ inch by 11 inch bond form printed on both sides satisfies, statutory, regulatory and information requirements and still is amenable to both computerized and non-computerized use.

**BOND TYPE CLASS**

Two commenters believe that the multi-transaction bond coverage requires a principal to obtain all of its coverage from one surety.

There is nothing inherent in the nationwide bond which would require a principal to obtain all of its coverage from one surety. A principal could obtain bonds from different sureties for each set of bond conditions.

One commenter stated that under the type of bonds proposed (single transaction and multi-transaction) it was important to define "transaction."

Each section within proposed subpart G, Part 113 in effect defines "transaction" for bonding purposes. For example, the provisions of proposed section 113.62, which contains the "Basic Entry and Importation Bond Conditions" establishes a class of transactions for Customs purposes for which a bond is required.

One commenter stated it did not understand how the reduction in the number of bonds required by a principal would facilitate the efficient operation of a computerized system.

Under the proposal all Customs bonds will be entered into the computer system, except for single transaction bonds. All of the bond information entered into the bond system will be used by other Customs data processing systems which interface with the bond system. These other systems will access the bond system files to verify and validate information entered into those other systems. Thus, when these systems access the bond system files, the fewer number of file queries they need to make because of fewer bonds in the file the greater the efficiency of the entire system. Even though each query of the system is measured in fractions of a second, in the context of an on-line system where fractions of a second are very long periods of time, the accumulated affect of numerous queries can lead to a degradation in response time.

#### BOND NUMBER

One commenter inquired as to how a surety can print its bond forms without knowing the bond numbers in advance. The commenter further stated that sureties and importers will have to adjust their computer systems to meet this bond numbering requirement. An organization commented that the proposal implies bond numbers will be stamped or printed on the reporting copies to be sent to the sureties. The commenter indicated that the bond number will need to be assigned before the copy sets are separated.

The bond number is a control number assigned by Customs on approved bonds. Sureties will not be authorized to print a number on the bond forms in the space reserved for Customs use. It is likely that some programming modifications will be necessary for those sureties which elect to take advantage of and employ the Customs number in their control mechanism. Customs believes that the use of the control number will be cost beneficial. However, Customs requests that commenters identify costs they will incur which could invalidate this belief.

The second commenter is correct in its assessment. The proposed bond form will be a three part set containing a Customs copy, a surety copy, and a principal copy. The complete three part bond set will be submitted to Customs for approval. With the approval of the bond by Customs, a bond number, which will be computer generated, will be placed on all copies of the bond by Customs. Customs will retain the original of the bond and the surety and principal copies will be returned to the party that submitted the bond to Customs.

One commenter suggested that consideration be given to implementation of a system that uses the current IRS or Customs assigned importer number.

In the initial stages of the bond simplification effort, Customs considered using the current IRS or Customs assigned importer numbers as a bond identifier as presently exists in the Automated Bond Information System (ABIS). However, when viewed in the

total context of the Customs Automated System, of which bonding is a small part, the disadvantages outweighed the benefits. In addition, the IRS number is not sufficiently unique for bond control purposes. For example, in those instances where an organization elects to switch its business to a different surety the IRS number does not possess the required uniqueness to provide a simple access to specific bonds. In this situation one IRS number could have a number of different bonds associated with it.

Two commenters addressed the subject of filing and retrieving bonds. One suggested that in addition to having bond information available by bond number, the information should be available on an alphabetical search system. Another stated that, although some ports still use a numerical system, it is much simpler to adhere to a strictly alphabetical system.

It is too costly and inefficient to have a data processing system dependent upon names for validations of information and accessing the system. The potential for a great variation in the legitimate spelling of names as well as erroneous spellings renders such a process cumbersome (e.g., General Motors Corporation, GMC, G.M.C., Gen. Motors, GM, etc.). However, it is contemplated that the approved bonds will be filed alphabetically at the district office. Queries to the computer file will be only by bond number. Periodically a bond cross-reference listing, both alphabetical and numerical, will be generated by the computer. It is anticipated that this output will be produced on micro-fiche.

Two commenters asked who will have bond approval authority and will the approval authority be delegatable. One commenter asked where bonds will be filed. Customs does not intend to change the current delegated bond approval authority. Thus, if the port director has been delegated the authority to approve bonds, he may do so. If the district director has not delegated this authority, bonds must be forwarded to the district office for the approval of the district director. Regardless of who approves the bonds, the approved continuous bonds will be retained in the district files.

#### BOND AMOUNT

Eight commenters addressed the question of the determination of bond amounts. The major thrust of the comments was that standard minimum bond amounts must be set on a nationwide basis and uniform procedures for determining the amount of any bond established. It was recommended that Customs issue guidelines for determining the amount of all bonds. Some commenters expressed the fear that bond amounts would increase because port bonds would be eliminated.

One of the many objectives of this bond simplification effort was to diminish the regulatory burden on the trade community while efficiently and effectively fulfilling Customs mission. In this effort Customs has kept the interests of all segments of the industry in

mind. Guidelines for determining bond amounts and the application of uniform procedures are set forth in proposed section 113.13.

Requiring a nationwide bond, rather than a port or district bond, will not necessarily increase the bond amount required. For example, the fact that a firm currently conducts business in each port of a 15 port district does not necessarily mean a \$150,000 bond amount (current port bond minimum \$10,000 times 15 ports) would be required. It is anticipated that, under guidelines issued for determining bond amounts, a number of different criteria will be taken into account in determining bond amount, such as, volume of business, type of merchandise, annual duties and tax involved, past performance, other agency requirements involved, etc. The same would be true under the nationwide bond proposed in this document.

#### BOND LANGUAGE/CONDITIONS/REGULATIONS

One commenter recommended that a surety's mitigation rights be set forth on the bond. The commenter in effect argues that a surety should be treated more generously than its principal. There is no legal basis for this argument. A principal and surety are both primarily liable under Customs bonds. The commenter wants sureties to be treated as guarantors rather than as sureties. Adoption of the recommendation will defeat the purpose underlying Customs bonds.

One commenter suggested that the new bond format provide codes for specific coverages of all existing bonds and categories where Customs experience indicates higher risks are involved.

A similar concept was considered in the course of the development of this project. However, the recommended format will lead to an inordinate number of bond conditions. This "a la carte" approach adds complexity to administering bonds. While there is a higher degree of risk between certain categories, that is only one of the criteria in determining overall risk. Thus, to structure bond conditions by such categories would not be desirable. Under the proposal, the varying degrees of risk between different categories of merchandise is reconciled in setting the bond amount. "Type of merchandise" is one of the criteria used, along with such items as volume, a firms compliance record, etc., in setting the bond amount.

One commenter suggests that the bond language include a requirement that Customs supply sureties with copies of appropriate bonds, entries and other documents in connection with claims or demands for payment.

Such language is not germane to a bond contract between a surety and principal. Accordingly, Customs does not believe it appropriate to include such a condition in the bond.

One commenter, while supporting the efforts of Customs to simplify the language of the bonds, opines that material changes in

bond requirements may influence the premiums that sureties charge for bonds.

Customs has no control over the premiums that sureties charge for bonds. However, there is nothing inherent in the proposal which would dictate an increase in premiums.

A commenter pointed out that there is a conflict between the two statements on bond liability in Appendix B of the ANPRM at 46 FR 28175 and the explanatory notes of the ANPRM at 46 FR 28173.

The ANPRM limited only the liability of the surety. The limitation should apply to both the principal and surety. This omission in the ANPRM was inadvertent and has been corrected in this document.

One commenter pointed out that Customs has 17 bond riders which are not addressed by the proposal and asked if it is envisioned that riders will no longer be needed.

These bond riders are actually individual bond conditions which are used to supplement certain bonds. These conditions have been incorporated into the revised bond conditions and will be eliminated as separate riders. However, the proposal does envision the need for certain specific riders subsequent to bond approval. These riders will be used to change the name of the principal, change the address of the principal, add co-principals to the bond, and add trade names or unincorporated divisions to the bond. These four riders appear in proposed section 113.24.

#### BOND TRANSCRIPT

Four commenters addressed the question of retention or elimination of the Bond Transcript, Customs Form 53. Two commenters supported the proposal to incorporate the information contained on the Bond Transcript into the bond and eliminate the form. Two commenters recommended that the format of the existing bond transcript be retained.

The existing bond transcript format does not contain all of the information required for the new bond structure. The Bond Transcript was created only to serve as a data input document for the ABIS. Thus, the Bond Transcript is an extract containing much of the same information as the existing bond. However, it is being used, without official sanction, to change bonds in the automated system without filing the required supporting legal documentation. Accordingly, it has been decided to eliminate the form.

#### BOND APPROVAL PROCEDURES

One commenter suggests the proposed bond system would be much more viable if approval of the bond could be made at the accepting port and bond information entered into the system via a terminal at the port.

Under this proposal the bond information will be entered into the system at the district level. However, the district director has the authority to delegate approval authority to the port level and if the port has the capability of inputting data to the system this can be done at the port level.

One commenter recommended that the existing Customs policy of requiring new bonds for all modifications except additions of principals to the bond and changes in name and address be reviewed. The commenter stated that such a review is necessary because the new structure will require many modifications since separate term bonds may not be used.

Customs disagrees that the new structure will lead to the necessity of many modifications to bonds. Only in extreme cases will the bond language be modified or a rider relating to substantive bond language used.

Another commenter suggested that a rider be used to increase the amount of a bond.

Under the proposed bond structure no riders, other than the four contained in proposed section 113.24 will be necessary. The proposal does not alter the existing Customs position with prohibits changes which go to the substance of a bond. Permitting changes to the amount of the bond by rider is a change to the substance of the bond.

One commenter inquired as to whether or not the practice of adding special provisions to a General Term Bond will be continued.

Under the proposed bond structure this practice will no longer be necessary.

#### RENEWAL AND TERMINATION PROCEDURES

Four commenters took exception to the proposed continuation of existing Customs policy which requires Customs concurrence to discontinue bonds within the first year of their coverage.

This restriction has been removed in this proposal. A bond can be terminated at any time under the procedures set forth in proposed section 113.26.

One commenter recommended that Customs bonds be of the continuing type and that they be written to allow cancellation by a principal only. The comment ignores the contractual basis of a bond and the lack of Customs authority to intervene in the contract between a principal and surety. In response to the first part of the comment Customs is proposing that the bonds be continuous.

Numerous comments were received regarding the proposed "courtesy bond renewal notice." Two commenters supported the proposed renewal procedure with a few minor clarifications. Two commenters offered qualified support with a number of constraints. Ten commenters expressed opposition to the renewal procedure because it would be burdensome and unnecessary.

The purpose of the proposed courtesy notice procedure was three-fold. First, it provided an affirmative action so all parties-in-interest had knowledge of the fact that premiums were paid and the bonds were extended or the coverage had lapsed. Second, it provided a periodic Customs review mechanism to ascertain whether a firm's Customs bond had become oversubscribed or undersubscribed in the course of the year. Third, it provided Customs with a means to update its files for certain changes to bond information which occurred over the course of a year, (e.g., change in surety agent address or change in surety agent).

Based on the comments received, the procedure to issue a courtesy notice of bond renewal has been dropped. Bonds will be continuous and remain in force until terminated under proposed section 113.26.

#### BOND RENEWAL/TERMINATION PROCEDURES

One commenter inquired as to whether or not the existing practice which requires a principal to file annual applications to establish the amount of the General Term Bond will be covered in the courtesy notice of bond renewal procedure.

As stated above the courtesy notice procedure has been dropped. However, principals will be required under proposed section 113.12(b)(2) to file updates of their bond applications whenever there is a significant change in the facts.

One commenter raised a question regarding Customs notice to sureties, e.g., collection actions; computerized demands for payment; suspension or extension of liquidation; etc. The commenter recommended that the three-digit surety code be revised to permit companies to designate a particular agent or office to receive notices in the above areas.

This recommendation deals with an area beyond the scope of the proposed regulation changes. However, the feasibility of the recommendation will be addressed by Customs when the computer system design is developed.

#### CONVERSION TO THE NEW STRUCTURE

Eight commenters recommended various transition periods which varied from 1 to 2 years in duration to convert to the new system. Two commenters indicated either of the transition approaches proposed in the ANPRM was acceptable. One commenter recommended that bond principals be given the right to choose the date they will terminate their existing bonds and convert to the new bond format. Another recommended a 120-day transition period.

After considering all of the comments Customs has decided it would be best to phase in the new bond structure over a one year period beginning 60 days after publication of the final rule in the Federal Register. On the sixtieth day after publication all new

bonds, single entry and continuous, are required to be on the new Customs Form 301 and contain the appropriate bond conditions set forth in proposed subpart G, of Part 113. All existing term, consolidated, and continuous bonds will be converted to the new system on their anniversary date. If a principal has more than one bond for the same type of activity (e.g., bonds which will under the new system be encompassed by the "Basic Importation and Entry Bond Conditions" contained in proposed section 113.12) all will be converted to the new system on the anniversary date of the bond with the earliest anniversary date. The responsibility for identification of the bonds affected and their anniversary dates will be the principals. Under the above approach all bonds will be converted within one year.

#### MISCELLANEOUS COMMENTS

One commenter recommended that Customs obtain statements of intent from sureties regarding what bond premiums will be if the proposed new bond structure is implemented.

Customs has no authority to require sureties to provide statements of intent regarding bond premiums. However, Customs can see nothing inherent in the proposed changes which would cause a premium increase.

One commenter recommended that the Special License to Unlade and Lade, Customs Form 3171, used with an air carrier's bond be automatically renewed as long as the air carrier's bond is in effect.

Although there is a relationship between bonds and this special license, this is beyond the scope of the regulations changes. However, the commenter's recommendation will be addressed when the computer systems design is developed by Customs.

One commenter stated that Customs is not consistent in requiring accurate IRS numbers. Inaccurate IRS numbers make it difficult for some sureties to identify individuals for whom they have written bonds. The commenter recommended that the Customs computer system should validate the accuracy of the IRS number before the release of merchandise.

This is outside the scope of this proposal. However, this subject area will be dealt with in the Automated Commercial System (ACS), another Customs computer system project currently under development.

#### DISCUSSION OF PROPOSED AMENDMENTS

##### PROPOSED AMENDMENTS TO PART 4

Part 4, Customs Regulations, relates to vessels in foreign and domestic trade. All proposed amendments to Part 4 are necessary to conform the regulations to proposed Part 113. The proposed amendments to sections 4.10, 4.13(b), 4.14(b), 4.16(a), 4.30(c), 4.30(i)(2),

4.32(b), 4.34(h), 4.75(a), 4.85(a), 4.88(a), and 4.90(e), Customs Regulations, merely remove a reference to an existing Customs bond form and substitute a reference to the proposed Customs Bond, Customs Form 301 and the appropriate bond conditions set forth in subpart G of proposed Part 113.

The proposed amendments to sections 4.30(f) and (g) would remove the words "but not longer than the period of the supporting bond" from each paragraph. Since bonds under this proposal are either single entry or continuous in nature and contain no reference to a bond period the reference to a bond period in the regulation must be removed.

It is proposed to add two sentences to section 4.38(a) which relates to release of cargo to indicate that when merchandise is released without a proper permit before entry has been made, the district director will issue a written demand for redelivery of the merchandise. The importing carrier would have 30 days after the demand is made to redeliver the merchandise to Customs. The proposed amendment is necessary to establish a regulatory requirement which, if breached, would establish a basis for liability under the bond.

#### PROPOSED AMENDMENTS TO PART 6

Customs air commerce regulations as found in Part 6, Customs Regulations. All proposed amendments to Part 6 are necessary to conform the regulations to proposed Part 113. The proposed amendments to sections 6.2(e), 6.2(f), 6.2(g), 6.8(a), 6.9(a), 6.20(c), and 6.22(e), Customs Regulations, merely remove the reference to an existing Customs bond form and substitutes a reference to the proposed Customs Form 301 and in certain instances a reference to the appropriate bond conditions set forth in subpart G of proposed Part 113 is included.

The proposed amendments to section 6.2(e), 6.2(f), and 6.8(e), Customs Regulations, remove the words "relating to a bond period". This is necessary since all bonds would be continuous or single entry and there would be no reference to a bond period in the single entry or continuous bond.

#### PROPOSED AMENDMENTS TO PART 7

Part 7, Customs Regulations, relates to Customs relations with insular possessions and Guantanamo Bay Naval Station. It is proposed to amend section 7.8(c), Customs Regulations, by removing the reference to existing bond forms and substituting a reference to proposed Customs Form 301 and the appropriate bond conditions set forth in proposed Part 113.

**PROPOSED AMENDMENTS TO PART 10**

Regulations relating to articles conditionally free, subject to a reduced rate of duty and similar provisions are found in Part 10, Customs Regulations. The proposed amendments to sections 10.24(f), 10.31(f), 10.36(a), 10.41a(c), 10.41b, 10.49(a), 10.59(e), 10.60(c), 10.60(f), 10.60(g), 10.64(a), 10.65(c)(3), 10.66(b), 10.67(b), 10.71(a), 10.71(e), 10.71(f), 10.80, 10.81(b), 10.90(f), 10.92(a), 10.108(b), and 10.173(a)(3), Customs Regulations, merely remove the reference to an existing Customs bond form and substitute a reference to the proposed Customs Form 301 and in certain instances a reference to the appropriate bond conditions contained in subpart G of proposed Part 113 is included.

The proposed amendments to sections 10.31(g), 10.36(b), 10.36(c), 10.39(e)(3), and 10.40(b), Customs Regulations, would remove references to a bond period. These changes are necessary since under the proposal Customs bonds will no longer contain a reference to a specific period of time.

Certain additional amendments are proposed to sections 10.36(b), 10.37, 10.38(a), 10.39, 10.60, 10.71(b), 10.83(a), and 10.92, Customs Regulations. These proposed amendments relate to minor technical conforming changes such as substituting the word "bond" for the word "bonds" and the words "liquidated damages" for the word "penalties".

In addition, it is proposed to amend section 10.64, Customs Regulations, which relates to crediting or cancellation of bonds to include a requirement that the withdrawer of merchandise shall deliver the merchandise to the vessel for lading and provide the district director with evidence of lading within 30 days after lading. This requirement is necessary to establish liability under the proposed new bond conditions.

**PROPOSED AMENDMENTS TO PART 11**

Part 11, Customs Regulations, relates to marking, packing and stamping of merchandise. The proposed amendments to sections 11.12(c), 11.12a(c), and 11.12b(c), Customs Regulations, all relate to removing a reference to an existing Customs bond and substituting a reference to the proposed Customs Form 301 and the appropriate bond conditions set forth in subpart G of proposed Part 113.

**PROPOSED AMENDMENTS TO PART 12**

Part 12, Customs Regulations, relates to special classes of merchandise. The proposed amendments to sections 12.3, 12.8(a), 12.12, 12.16(c), 12.26(e), 12.39(b)(2), 12.39(b)(3), 12.73(c), 12.80(e)(1), 12.80(e)(2), 12.85(e), 12.91(d), and 12.115, Customs Regulations, remove references to an existing Customs bond form. In appropriate instances a reference to proposed Customs Form 301 is substi-

tuted and when necessary a reference to the proposed bond conditions set forth in subpart G of proposed Part 113 is included.

Section 12.33(c), relating to importations of tea, states that all entries of tea shall be on regular forms, and the regular serial numbers for both bonds and entries shall be used. Customs is unaware of the reason for this specific provision. In addition, other than for single entry bonds bond numbers will be computer generated. Accordingly, it is proposed to delete the paragraph.

Certain technical conforming amendments are proposed to section 12.8(b) where the words "of a bond" are proposed to be substituted for the words "of bonds", section 12.26(e) where the words "district director" are proposed to be substituted for the word "collector", section 12.26(h) where the words "a claim for liquidated damages shall be issued under the bond" are proposed to be substituted for the words "a bond shall be forfeited", section 12.39(b)(3) where the word "rider" is proposed to be removed, section 12.80(e)(1) where the words "An approval" are proposed to be substituted for the words "The bond release", sections 12.80 (e)(1) and (e)(2) where the word "approval" is proposed to be substituted for the words "bond release", and section 12.117(b) where the words "issue a demand for" are proposed to be substituted for the word "assess".

#### PROPOSED AMENDMENTS TO PART 18

Part 18, Customs Regulations, relates to transportation in bond and merchandise in transit. The proposed amendments to section 18.3(e), 18.20(b), 18.25(b), and 18.25(d), merely remove the reference to an existing Customs bond form and substitute a reference to proposed Customs Form 301. In appropriate instances a reference to the proposed bond condition set forth in subpart G of proposed Part 113 is included.

Section 18.25 relating to direct exportation would be amended under the proposal by redesignating present paragraph (e) as paragraph (f) and adding a new paragraph (e). The new paragraph would provide that the principal on any bond filed to guarantee direct exportation must insure that the merchandise is exported and within 30 days of exportation provide such evidence of exportation as the district director requires. It is also proposed to amend section 18.26 relating to indirect exportation. The proposed technical amendment to paragraph (a) would substitute a reference to section 18.25(a) in place of the reference to section 18.25(d) in the first sentence. The second sentence of the paragraph would be revised to indicate that upon acceptance of the entry by Customs and acceptance of the merchandise by the bonded carrier the bonded carrier assumes liability for the transportation and exportation of the merchandise. This provision is necessary to fix responsibility and liability under the new bond conditions. In addition, a new paragraph (d) would be included in the section. The paragraph,

which is similar to proposed section 18.25(e), would provide that the bonded carrier must cause merchandise to be exported and provide such evidence of exportation as required by the district director within 30 days of exportation. This provision is necessary to fix responsibility and liability under the new proposed bond conditions.

#### PROPOSED AMENDMENTS TO PART 19

Customs warehouses and container stations are the subject of Part 19, Customs Regulations. On November 1, 1982, T.D. 82-204, was published in the Federal Register (47 FR 49355). That document, which implemented an audit-inspection approach for control of merchandise in Customs bonded warehouses, made significant changes to Part 19. This document proposes to amend several of the same sections in Part 19. Accordingly, to fully understand the following proposed amendments, the text of T.D. 82-204 should be consulted. The proposed amendments to sections 19.2, 19.14, 19.15, 19.16(g)(1), 19.17(e), and 19.40, Customs Regulations, merely remove a reference to an existing Customs bond form and substitute a reference to proposed Customs Form 301, and the bond conditions set forth in proposed section 113.63. It is proposed to amend section 19.11, relating to manipulation in bonded warehouses, by adding a sentence which provides that the warehouse proprietor must not allow a manipulation of merchandise without a permit issued by the district director. This provision is necessary to fix responsibility and provide a basis for liability under the proposed bond conditions. It is also proposed to remove the word "general" from in front of the word "bond" in section 19.15(g)(1). Customs would no longer have "general" bonds, only "single entry" and "continuous" bonds. It is proposed to remove section 19.17(b) which refers to the renewal of a bond. Bonds would be continuous and need not be renewed.

#### PROPOSED AMENDMENTS TO PART 22

Part 22, Customs Regulations, relates to drawback. It is proposed to amend section 22.7(d)(2)(ii) by inserting a reference to the proposed Customs Bond, Customs Form 301, and section 22.20a by substituting a reference to the proposed form for a reference to existing Customs bonds. It is also proposed to eliminate the reference to a bond rider for drawback in section 22.20a and a reference to a temporary importation bond in section 22.28(b). This is necessary since the rider is eliminated under this proposal and the temporary importation bond conditions are incorporated into the "Basic Importation and Entry Bond Conditions" set forth in proposed section 113.62.

**PROPOSED AMENDMENTS TO PART 24**

Part 24, Customs Regulations, relates to Customs financial and accounting procedures. The proposed amendments to sections 24.1(a)(3), 24.11(a)(2), and 24.16(c) remove a reference to an existing Customs bond and, in the case of the latter two sections, substitutes a reference to the proposed Customs Form 301 and the appropriate bond conditions set forth in subpart G of proposed Part 113. The proposed amendment to section 24.4(a)(i) indicates that once approved the deferred payment privilege for payment of estimated import taxes on alcoholic beverages remains in effect until terminated. This change is a reflection of the continuous nature of the bond under this proposal. The proposed amendment to section 24.11(b) is purely a stylistic change in the language. The proposed change to section 24.16(c)(3) eliminates a reference to an existing Customs bond and substitutes a reference to the new proposed continuous bond. It is also proposed to eliminate from this paragraph a reference to the supporting bond period since there will be no period of time referred to in the proposed bond.

**PROPOSED AMENDMENTS TO PART 54**

Certain importations temporarily free of duty are covered in Part, Customs Regulations. The proposed amendment to section 54.6 deletes a reference to existing Customs bonds and substitutes a reference to proposed Customs Form 301 and the proposed "Basic Importation and Entry Bond Conditions" set forth in proposed section 113.62.

**PROPOSED AMENDMENTS TO PART 101**

Part 101, Customs Regulations, relates to Customs general administrative provisions. The proposed amendment to section 101.1 would add a definition of "exportation" which is currently set forth in section 113.55, Customs Regulations.

**PROPOSED AMENDMENTS TO PART 112**

Regulations relating to carriers, cartmen and lightermen are found in Part 112. The proposed amendments to sections 112.11(a)(4)(ii), 112.12(a), 112.22(a)(1), and 112.25 would eliminate a reference to an existing Customs bond and substitute a reference to the proposed Customs Form 301 and the proposed "Basic Custodial Bond Conditions" set forth in proposed section 113.63. The proposed amendment to section 112.26 would change a cross-reference to reflect the proposed provisions relating to termination of bonds which will appear in proposed section 113.26. It is proposed to amend section 112.27(d) by removing a reference to liability under a terminated bond for removal of markings from vehicles and vessels. Because the bond provisions relating to temporary identification cards for cartmen will be incorporated into the bond condi-

tions set forth in proposed section 113.63 relating to "Basic Custodial Bond Conditions", it is proposed to remove the bond format set forth in section 112.27(d).

#### PROPOSED AMENDMENTS TO PART 113

Part 113, Customs Regulations, relates to Customs bonds and has been extensively revised by this proposal.

Proposed section 113.0 sets forth the scope of Part 113. The proposed section is essentially the same as present section 113.0. However, a reference to the proposed bond conditions has been added to the listing in the scope paragraph.

Proposed section 113.1 is virtually identical to existing section 113.2.

Section 113.3 indicates that both a surety and a principal remain liable for obligations incurred before termination. This is identical to present section 113.3.

Proposed section 113.4 combines present sections 113.11 and 113.12 relating to bonds and carnets. The distinction between the class of bonds approved by the Commissioner and those approved by the district directors has been removed. Under the proposal all bonds will be approved by the district directors. Since all bonds will be executed on proposed Customs Bond, Customs Form 301, and contain the appropriate bond conditions set forth in proposed subpart G, all the various bonds listed in present sections 113.13 and 113.14 are proposed to be removed.

Proposed subpart B relates to bond application and approval procedures. Proposed section 113.11 provides that each person who is required by law, regulation, or specific instruction to post a bond to secure a Customs transaction or multiple transactions must submit the bond on Customs Form 301. If the transaction(s) will occur in a single Customs district, the bond will be filed with and approved by the district director of the district in which the transaction(s) will take place. If the transactions will occur in more than one district the bond may be filed with and approved by any district director. The district director will determine whether the bond is in proper form and provides adequate security for the transaction(s).

A bond application is required under proposed section 113.12 to insure that the revenue is adequately protected. In the case of a single Customs transaction relating to the importation or entry of merchandise the bond application may be in the form of a letter. The application must identify the value and nature of the merchandise involved in the transaction to be secured.

If a person desires to secure multiple transactions relating to the importation or entry of merchandise or the operation of a bonded smelting or refining warehouse, a bond application, which may be in the form of a letter, must be submitted to the district director.

The application must identify the general character of the merchandise to be entered; and the total amount of ordinary Customs

duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise to be collected by Customs. The total amount of duties and taxes must be that which would have been required to be deposited had the merchandise been entered for consumption even though some or all of the merchandise may have been entered under bond. If the value or nature of the merchandise to be imported will change in any material respect during the next year, the change must also be identified. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year must be submitted.

If the district director approves a bond based upon the application, the principal on the bond will be required to submit a new application whenever there is a significant change in the information provided. The new application must be filed no later than 30 days after the new facts become known to the principal. A certification that the factual information contained in the application is true and accurate is required. Any information provided which is based upon estimates must be certified as being based upon the best information available on the date of the application. The provisions of present section 113.62, served as the basis for proposed section 113.12.

The provisions of present section 113.16, relating to the amount of the bond, served as the basis for proposed section 113.16(a) and remains unchanged from the present language. However, it is proposed to add a new paragraph to the section which sets forth guidelines for determining the amount of the bond. Under the proposed guidelines the district director would consider the following:

- (1) The prior record of the principal in timely payment of duties, taxes, and charges with respect to the transaction(s) involving such payments;
- (2) The prior record of the principal in complying with Customs demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of Customs and other laws and regulations;
- (3) The value and nature of the merchandise involved in the transaction(s) to be secured;
- (4) The degree and type of supervision that Customs will exercise over the transaction(s);
- (5) The prior record of the principal in honoring bond commitments, including the payment of liquidated damages; and
- (6) Any additional information contained in any application for a bond.

In addition to the foregoing, it is proposed to add a paragraph relating to periodic review of bond sufficiency. The district directors would be required to periodically review each bond filed in their district to determine whether the amount of the bond is sufficient to protect the revenue and insure compliance with the law and regulations. If the district director determines that the bond is insufficient, the principal will be immediately notified in writing. The principal will have 30 days from the date of notification to remedy the deficiency.

If the district director believes that none of the bond conditions contained in subpart G of proposed Part 113 is applicable to a transaction sought to be secured, under proposed section 113.14 the district director could draft conditions to cover the transaction, but before execution of the bond the conditions must be submitted to the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, for approval. Similar provisions appear in present section 113.17.

Proposed section 113.15, relating to retention of approved bonds, provides that all bonds approved by the district director, except the bond containing the agreement to pay court costs (condemned goods) (see proposed section 113.72), will remain on file in the district office unless the district director is directed in writing by the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, as to other disposition. The bond containing the agreement to pay court costs (condemned goods), is to be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608). These provisions are similar to existing section 113.18.

Proposed subpart C relates to bond requirements and parallels present subpart C. Proposed section 113.21, relating to information required on the bond, proposed section 113.22, relating to witnesses required, and proposed section 113.23, relating to changes made on the bond, are identical to the present sections of the regulations.

It is proposed to add a new section 113.24 which would incorporate into the regulations current procedures relating to bond riders. The section would provide that the district director may accept the following types of bond riders:

(1) *Name change of principal.* A bond rider to change the name of a principal on a bond may be used only when the change in name does not change the legal identity or status of the principal. If a new corporation is created as a result of a merger, reorganization or similar action, a bond rider for a name change of the principal cannot be used. A new bond would be required.

(2) *Addition of co-principal.* A bond rider for the addition of a co-principal may be used by persons having a distinct legal status (e.g. individuals, partnerships, corporations) to join another person with the same distinct legal status as a co-princi-

pal on a bond. This bond rider could not be used to join an entity which does not have a distinct legal status (e.g. an unincorporated division of a corporation). This bond rider may not be used to join different legal entities as co-principals (e.g. an individual and a corporation, a partnership and a corporation).

(3) *Address change.* A bond rider may be used to change the address of a principal on a bond.

(4) *Addition of trade names and unincorporated divisions of a corporate principal.* A bond rider may be used for the purpose of adding trade names and the names of unincorporated divisions of a corporate principal which do not have a separate and distinct legal status.

All riders would be required to be securely attached to the related bond to prevent their loss or misplacement. The proposed section sets forth the format for each authorized rider.

Proposed section 113.25, relating to seals, is similar to present section 113.24. One paragraph of section 113.24 relates to bonds approved by the Commissioner and the other to bonds approved by the district director. Since all bonds will be approved by the district director, proposed section 113.25 eliminates the distinction.

Proposed section 113.26, which is similar to present section 113.56, relates to termination of the bond. The section would provide that a request by a principal to terminate a bond must be made in writing to the district director in whose district the bond was approved. The termination will take effect on the date requested if the date is at least 10 business days after the date of receipt of the request at the district office. Otherwise, the termination will be effective on the close of business 10 business days after the request is received at the district office. If no termination date is requested, the termination will take effect on the tenth business day following the date of receipt of the request by the district director.

Under the proposed section a surety may, with or without the consent of the principal, terminate a Customs bond on which it is obligated. The surety must provide reasonable written notice to both the district director in whose district the bond was approved and the principal of the intent to terminate. The written notice must state the date on which the termination will be effective and must be sent to both Customs and the principal by certified mail, with a return receipt requested. Thirty days will constitute reasonable notice unless the surety can show to the satisfaction of the district director that a lesser time is reasonable under the facts and circumstances.

The proposed section also contains a paragraph relating to the effect of the termination of a bond which provides that if a bond is terminated, no new Customs transactions can be charged against the bond. Further, the proposed section states that a new bond in an appropriate amount on Customs Form 301, containing the appropriate bond conditions set forth in subpart G of proposed Part

113, must be filed before further Customs activity may be transacted.

Proposed subpart D, relating to principals and sureties, parallels present subpart D, section for section, except for the last section which has been changed to proposed section 113.40. The language of all sections has been modernized and clarified without substantive modifications. Present sections 113.35, 113.36, 113.37, and 113.39 have been extensively rewritten to reflect this modernization.

Section 113.37(f) relates to the power of attorney for the agent or attorney of the surety. The corporate surety power of attorney is executed on the Customs Form 5297. While the substance of section 113.37(f) has not been changed, the Customs Form 5297 format has been modified to reduce the number of forms that must be submitted to Customs and make it compatible with the new bond structure. The proposed modified form is set forth in Appendix C to this document.

Under the provisions of proposed section 113.38(c), a district director or the Commissioner of Customs may refuse to accept a bond secured by an individual or corporate surety when the surety, without just cause, is significantly delinquent either in the number of outstanding bills or the dollar amounts thereof. Customs has a right to examine the past performance of sureties to determine if a "satisfactory record of performance" exists and to refuse to accept new bonds from sureties where past transactions indicate a marked inability or unwillingness to meet valid obligations under law and contract with Customs. Refusal to accept bonds from a surety which is deemed to be non-responsible is a temporary measure designed to protect the Government from cumbersome contracts. As soon as the appropriate Customs officer is satisfied that a surety stands ready, willing, and able to resume a normal business relationship with Customs, its bonds will again be accepted. However, absent extraordinary circumstances, once the decision to sanction a surety is made, it will be effective for five working days or until the surety's past due accounts are cleared, whichever is later.

In order for sanctions against a surety to be used, the appropriate Customs officer must examine the number and extent of deficiencies and determine that the surety was sufficiently apprised of its obligations, and has received appropriate documents which demonstrate the deficiencies. In addition, under proposed paragraph (c)(3) the surety will be given an opportunity to provide evidence that failure to pay is the result of significant, non-frivolous questions of fact or law or that the requested payment is beyond the scope of the surety's obligations under the contract (e.g., expiration or satisfaction of the bond or prior payment), and an opportunity to pay if those reasons are rejected.

Since any proposed sanction could result in litigation, the district director will, under internal operating directives, be required to

inform the appropriate regional commissioner and regional counsel of the proposed action before it is initiated and have available for their use to defend any possible court action copies of relevant documents. If the district director, regional commissioner, or regional counsel believe that substantive legal questions are raised by the proposed action, any of them should request internal advice under the provisions of section 177.11, Customs Regulations.

A sample "show cause" form letter from the appropriate Customs officer providing the surety with reasonable notice and the requirement to show cause for failure to pay is set forth in Appendix F to this document. Minimum time periods for surety responses are indicated in the letter. In order to determine the scope of the problem and insure national coordination, internal instructions will indicate that copies of all correspondence be forwarded to the Director, Accounting Division, at Customs Headquarters if the problem with the surety relates to collection matters. If legal issues are raised, copies of all correspondence and documents relating to the matter will be sent to the Director, Carriers, Drawback and Bonds Division.

Customs officers will not refuse to accept entries secured by the bonds already filed and approved except for reasons specified in the Customs regulations or under extraordinary circumstances, and then only with the approval of Customs Headquarters.

If, within the time period established in the show cause letter, the surety has failed either to pay or submit evidence that its failure to pay is the result of a significant nonfrivolous question of fact or law, and the appropriate Customs officer believes that the efficient operation of Customs or protection of the revenue will be best served by refusing to further accept new bonds from the surety until the record of the surety is cleared, then the appropriate Customs officer will, under the provisions of proposed paragraph (c) do the following:

- a. Notify the surety in person or by certified mail of the decision not to accept new bonds from the surety, effective on a date certain, but not less than 5 working days from the date of the letter;
- b. Post a notice in all Customhouses within the affected area of the action taken and take action to have the notice published in the Customs Bulletin; and,
- c. Once a surety's record is considered to be cleared, a notice rescinding the sanction will be published in the Customs Bulletin and posted in all Customhouses within the affected area of the action taken.

When notice is sent to the surety of the decision not to accept the surety's bonds, the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, will request the Bureau of Government Financial Operations to revise Treasury Circular 570 to give

notice of the refusal of Customs to accept any new bonds written by the surety.

The appropriate field officials are to report promptly all appropriate facts to the Commissioner of Customs in every case in which an obligation to pay debts owing to Customs has been ignored by the principal, and demands on the surety for payment of the amounts due under the surety's bond have not been promptly complied with by the surety. Under the provisions of proposed section 113.39, it is the intention of Customs to report the failure of any surety to honor its obligations under 31 U.S.C. 9305 to the Department of the Treasury with the object of having the surety declared ineligible to underwrite any bonds for the United States Government.

A new proposed section 113.39, relating to the procedures for removal of a surety from Treasury Department Circular 570, has been added to the proposed subpart. The section provides that if a district director or regional commissioner is unsatisfied with a surety company because the company has neglected or refused to pay a valid demand made on the surety company's bond or otherwise has failed to honor an obligation on that bond, the district director or regional commissioner may take steps to have the surety company removed from Treasury Department Circular 570. The section indicates that the fact that collection proceedings have been, or are to be, started on a bond does not preclude use of the procedure if the district director or regional commissioner believes such action is warranted.

Under the proposed section a district director or regional commissioner must send a report accompanied by evidence which in their opinion warrants removal of the surety to the Director, Carriers, Drawback and Bonds Division, Customs Headquarters. If the report is from a district director it must be submitted through the appropriate regional commissioner. The evidence required to accompany the report consists of: (1) A copy of the bond in issue; (2) A copy of the entry or other evidence which shows that there was a default on the bond; (3) A copy of all notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation; (4) A copy of all correspondence from the surety company, and (5) A written statement of the facts known to the district director or regional commissioner showing the unsatisfactory performance by the surety company of the bond obligation(s).

The section provides that the Director, Carriers, Drawback and Bonds Division, Customs Headquarters, must review the submitted evidence and determine whether further action against the surety company is warranted. If it is determined that further action is warranted, a report recommending appropriate action will be submitted by Customs Headquarters to the Fiscal Assistant Secretary, Department of the Treasury, as required by section 223.18(a),

Bureau of Government Financial Operations Regulations (31 CFR 223.18(a)). The section provides for notification of the district director and regional commissioner of Headquarters action regarding their request for removal of the surety.

Proposed sections 113.41 through 113.55 parallel the current regulations with the same numerical designation, section by section. As has been done with other sections, the provisions have been rewritten in some instances to clarify and modernize the language without changing the substance.

A new proposed subpart G has been added which contains the Customs bond conditions. Each section identifies specific coverage for a particular Customs activity. When an individual or organization files a bond with Customs the activity in which they plan on engaging will be identified on the bond. The bond conditions listed in this subpart which correspond to that activity will be incorporated by reference into the bond. Appendix B to this document identifies the sections in this subpart and the existing Customs bond conditions which are incorporated into each of the sections.

Proposed section 113.62 lists the "Basic Importation and Entry Bond Conditions" which may be incorporated by reference into either a single entry or continuous bond on proposed Customs Form 301. However, a bond taken in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 must be a single entry bond.

Proposed section 113.63 identifies the "Basic Custodial Bond Conditions" which are incorporated by reference into the continuous bond. All those individuals and organizations who are custodians of merchandise and previously had separate bonds (e.g., carriers, cartman, warehouse proprietors, etc.) will now be covered by the same bond condition.

The "International Carrier Bond Conditions", which may be incorporated into either a single entry or continuous bond are found in proposed section 113.64.

The proposed bond conditions for repayment of erroneous drawback are found in proposed section 113.65. These conditions can only be used as a part of continuous bond.

Proposed section 113.66 relates to the "Control of Containers and Instruments of International Traffic Bond Conditions" which can only be used with a continuous bond.

"Licensed Public Gauger Bond Conditions" are found in proposed section 113.67 and are used in conjunction with a continuous bond.

The bond conditions for wool and fur products labeling acts, which are to be used in conjunction with the single entry bond, are found in proposed section 113.68.

Proposed section 113.69 relates to the bond conditions for the production of a bill of lading and are to be used with the single entry bond.

The bond conditions found in proposed section 113.70 relate to indemnification of the United States for detention of copyrighted material. These conditions must be used with a single entry bond.

The "Bond Condition to Observe Neutrality" is set forth in proposed section 113.71 and is to be used with a single entry bond.

A single entry bond is used with the "Bond Conditions to Pay Court Costs (Condemned Goods)" found in proposed section 113.72.

The bond conditions for foreign trade zone operators are found in proposed section 113.73 and are to be used with a continuous bond.

#### PROPOSED AMENDMENTS TO PART 114

Part 114, Customs Regulations, relates to carnets. It is proposed to amend section 114.22(d) by removing the words "carrier's bond" and substituting "Customs bond".

#### PROPOSED AMENDMENTS TO PART 123

Customs regulations relating to Customs relations with Canada and Mexico are in Part 123. It is proposed to amend section 123.8(c) by removing a reference to existing Customs bonds and substituting a reference to Customs Form 301 containing the bond conditions set forth in proposed section 113.64 relating to "International Carrier Bond Conditions".

#### PROPOSED AMENDMENTS TO PART 125

Part 125, Customs Regulations, relates to cartage and lightering of merchandise. It is proposed to amend section 125.42 by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301, containing the bond conditions set forth in proposed section 113.63 relating to "Basic Custodial Bond Conditions".

#### PROPOSED AMENDMENTS TO PART 127

Part 127, Customs Regulations, relates to general order, unclaimed and abandoned merchandise. It is proposed to amend section 127.37(a) by removing a reference to an existing Customs bond and substituting a reference to the bond conditions set forth in proposed section 113.62 relating to the "Basic Importation and Entry Bond Conditions".

#### PROPOSED AMENDMENTS TO PART 132

Quotas are the subject matter of Part 132, Customs Regulations. It is proposed to amend section 132.14(a)(4) by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301, containing the bond conditions set forth in proposed section 113.62 relating to "Basic Importation and Entry Bond Conditions".

**PROPOSED AMENDMENTS TO PART 133**

Customs regulations relating to trademarks, trade names and copyrights are in Part 133. It is proposed to amend sections 133.24, 133.43(b)(2), and 133.46 by substituting a reference to Customs Form 301 containing the appropriate proposed bond conditions set forth in subpart G of proposed Part 113.

**PROPOSED AMENDMENTS TO PART 134**

Part 134, Customs Regulations, relates to country of origin. It is proposed to delete a reference to an existing Customs bond and substitute a reference to Customs Form 301 containing a reference to the proposed bond conditions set forth in proposed section 113.62 relating to the "Basic Importation and Entry Bond Conditions".

**PROPOSED AMENDMENTS TO PART 141**

Customs regulations relating to entry of merchandise are found in Part 141. It is proposed to amend the definitions set forth in section 141.0a to include a definition for the phrase "released conditionally" and a revised definition for "entered temporarily under bond". Sections 141.15(b), 141.18(b), 141.19(b)(2)(ii), 141.20(a)(2), 141.66, 141.91(d), 141.92(c), and 141.112(g) would be amended by removing a reference to an existing bond and inserting a reference to Customs Form 301 containing the appropriate bond conditions set forth in proposed subpart G. It is also proposed to amend sections 141.20(a)(2) and 141.82(c) by substituting a reference to a "continuous" bond for a reference to a "term" bond. Section 141.52(g), 141.84(e), and 141.102(d) would have similar non-substantive technical conforming amendments. References in sections 141.83(d)(10) and 141.101(e) to "permanent exhibition bonds", "temporary importation bonds" etc. have been deleted and words such as "entered for permanent exhibition under bond" have been substituted.

**PROPOSED AMENDMENTS TO PART 142**

Part 142, Customs Regulations, relates to the entry process. It is proposed to amend sections 142.4, 142.19, and 142.21, by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301 containing the appropriate bond conditions set forth in subpart G of proposed Part 113. Amendments are also proposed to sections 142.1, 142.11(a), and 142.22(b)(l) to substitute references to "temporary importation under bond" for references to "temporary importation bonds". In sections 142.15 and 142.27 reference to a "continuous" bond is proposed to be substituted for references to "term bonds". It is also proposed to eliminate Bond Rider R set forth in section 142.5.

**PROPOSED AMENDMENTS TO PART 144**

Customs regulations relating to warehouse and rewarehouse entries and withdrawals are contained in Part 144. It is proposed to amend sections 144.2, 144.13, 144.14, 144.21, 144.24, and 144.41 by removing a reference to an existing Customs bond and substituting a reference to Customs Form 301 containing a reference to the appropriate bond conditions set forth in subpart G of proposed Part 113. It is also proposed to eliminate the bond conditions set forth in section 144.15(d). In section 144.41(g) it is proposed to remove a reference to the warehouse entry bond period and substitute a reference to the 5-year period during which merchandise may remain in warehouse under bond.

**PROPOSED AMENDMENTS TO PART 145**

Part 145, Customs Regulations, relates to mail importations. It is proposed to amend section 145.72(d) by removing a reference to a "temporary importation bond" and substituting a reference to "temporarily imported under bond".

**PROPOSED AMENDMENTS TO PART 146**

Customs regulations relating to foreign-trade zones are found in Part 146. It is proposed to amend sections 146.42 and 146.45 by removing references to existing customs bonds and substituting references to Customs Form 301 containing the bond conditions proposed in section 113.62 relating to the "Basic Importation and Entry Bond Conditions".

**PROPOSED AMENDMENTS TO PART 147**

Trade fairs are provided for in Part 147, Customs Regulations. It is proposed to amend section 147.2(a)(2) by removing a reference to an "exhibition bond" and substituting a reference to "imported for exhibition under bond". Section 147.3 would be modified by setting forth the requirement for a bond on Customs Form 301 containing the bond conditions enumerated in proposed section 113.62 relating to the "Basic Importation and Entry Bond Conditions".

**PROPOSED AMENDMENTS TO PART 148**

Customs regulations relating to personal declarations and exemptions are found in Part 148. It is proposed to eliminate a reference to current Customs bonds contained in section 148.52(c) and substitute a reference to Customs Form 301.

**PROPOSED AMENDMENTS TO PART 151**

Part 151, Customs Regulations, relates to examination, sampling and testing of merchandise. It is proposed to amend sections 151.7(d), 151.11, and 151.43 by removing the references to current

Customs bonds and in appropriate sections substituting a reference to Customs Form 301 and the bond conditions set forth in subpart G of proposed Part 113.

#### PROPOSED AMENDMENTS TO PART 162

Regulations relating to recordkeeping, inspection, search and seizure, are found in Part 162. Proposed amendments to sections 162.45(a)(3) and 162.47(b) would add references to Customs Form 301 containing the bond condition set forth in proposed section 113.72 relating to the "Bond Condition to Pay Court Costs (Condemned Goods)" and in the case of section 162.47(b) remove a reference to an existing bond and the list or schedule containing a description of seized articles.

#### PROPOSED AMENDMENT TO PART 172

Liquidated damages regulations are found in Part 172, Customs Regulations. The proposal would amend section 172.22(c) by substituting a reference to the continuous bond for a reference to a term bond.

#### EXECUTIVE ORDER 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291.

#### REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are applicable to this proposal. Accordingly, an initial regulatory flexibility analysis is attached as Appendix D. Comments on the analysis are also solicited and should accompany comments submitted on the proposal.

#### PAPERWORK REDUCTION ACT

The proposed regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511. Accordingly, applicable sections of this document are subject to clearance by the Office of Management and Budget.

#### COMMENTS

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

**AUTHORITY**

This document is issued under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 623, as amended, 624, 46 Stat. 759 (19 U.S.C. 1623, 1624).

**DRAFTING INFORMATION**

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

**LIST OF SUBJECTS**

- 19 CFR Part 4—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 6—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 7—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 10—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 11—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 12—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 18—Bonds, Customs duties and inspection, exports, imports, surety bonds.
- 19 CFR Part 19—Bonds, Customs duties and inspection, exports, imports, surety bonds.
- 19 CFR Part 22—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 24—Bonds, Customs duties and inspection.
- 19 CFR Part 54—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 101—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 112—Bonds, Customs duties and inspection, imports, surety bonds.
- 19 CFR Part 113—Bonds, Customs duties and inspection, exports, imports, surety bonds.
- 19 CFR Part 114—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 123—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 125—Bonds, Customs duties and inspection, exports, imports, surety bonds.
- 19 CFR Part 127—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 132—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 133—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 134—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 141—Bonds, Customs duties and inspection, imports.

- 19 CFR Part 142—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 144—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 145—Bonds, Customs duties and inspection, imports, warehouses.
- 19 CFR Part 146—Bonds, Customs duties and inspection, exports, imports.
- 19 CFR Part 147—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 148—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 151—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 162—Bonds, Customs duties and inspection, imports.
- 19 CFR Part 172—Bonds, Customs duties and inspection, liquidated damages.
- 19 CFR Part 174—Bonds, Customs duties and inspection, imports, protests.

#### PROPOSED AMENDMENTS TO THE REGULATIONS

It is proposed to amend Parts 4, 6, 7, 10, 11, 12, 18, 19, 22, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, and 174, Customs Regulations (19 CFR Parts 4, 6, 7, 10, 11, 12, 18, 19, 22, 24, 54, 101, 112, 113, 114, 123, 125, 127, 132, 133, 134, 141, 142, 144, 145, 146, 147, 148, 151, 162, 172, 174), as set forth below.

#### PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. It is proposed to amend section 4.10 by removing the words "Customs Form 7567 or 7569" in the fourth sentence of the section and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter".
2. It is proposed to amend section 4.13(b) by removing the words "Customs Form 7593" and inserting in their place the words "Customs Form 301, containing the bond conditions relating to international carriers set forth in section 113.64 of this chapter in an amount equal to twice the potential duty liability".
3. It is proposed to amend section 4.14(b) by removing the words "Customs Form 7567 or 7569" in the fourth sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter".
4. It is proposed to amend section 4.16(a) by removing the words "a bond on Customs Form 7567 in such penal sum as the district director of Customs deems sufficient but not less than \$1000, or the usual term bond on Customs Form 7569" and inserting in their place the words "a single entry or continuous bond on Customs Form 301, in such amount as the district director deems appropriate but not less than \$1000".
5. It is proposed to amend section 4.30(c) by removing the words (a) ",<sup>62</sup> on Customs Form 7567 or 7569, has been received" in the first sentence of the paragraph and inserting in their place the

words "has been filed on Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter relating to international carriers <sup>62</sup>" and (b) "Customs Form 3587" in the second sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter relating to basic custodial bond conditions".

6. It is proposed to amend sections 4.30 (f) and (g) by removing the words ", but not longer than the period of the supporting bond".

7. It is proposed to amend section 4.30(i)(2) by removing the words "A vessel bond, on Customs Form 7567 or 7569" and inserting in their place the words "A bond on Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter relating to international carriers".

8. It is proposed to amend section 4.32(b) by removing the words "Customs Form 7567" and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter relating to international carriers".

9. It is proposed to amend section 4.34(h) by removing the words "vessel bond" in the third sentence of the paragraph and inserting in their place the words "bond on Customs Form 301, containing the bond conditions relating to international carriers set forth in section 113.64 of this chapter".

10. It is proposed to amend section 4.38(a) by adding two sentences at the end of the paragraph to read as follows:

#### 4.38 RELEASE OF CARGO.

(a) \* \* \* When merchandise is released without proper permit before entry has been made, the district director shall issue a written demand for redelivery. The importing carrier shall redeliver the merchandise to Customs within 30 days after the demand is made.

\* \* \* \* \*

11. It is proposed to amend section 4.75(a) by removing the words "Customs Form 7567 or Customs Form 7569" in the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.64 relating to international carriers".

12. It is proposed to amend sections 4.85(a) and 4.88(a) by removing the words "vessel bond (Customs Form 7567 or 7569)" in the first sentence of each paragraph and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter relating to international carriers".

13. It is proposed to amend section 4.90(e) by revising it to read as follows:

**4.90 SIMULTANEOUS VESSEL TRANSACTIONS.**

\* \* \* \* \*

(e) When a single entry bond, containing the bond conditions set forth in section 113.64, relating to the international carriers, is filed at any port and it is applicable to the current voyage of the vessel, it shall cover all other transactions engaged in on that voyage of a like nature and another bond containing the international carrier bond conditions need not be filed.

**PART 6—AIR COMMERCE REGULATIONS**

1. It is proposed to amend sections 6.2(e) and (f) by removing the words (a) "but not longer than the period of the supporting bond," in the first sentence of each paragraph and (b) "on Customs Form 7567 or 7569," in the last sentence of each paragraph.

2. It is proposed to amend section 6.2(g) and the first and second sentences of section 6.9(a) by removing the words "on Customs Form 7567 or 7569" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter relating to international carriers".

3. It is proposed to amend section 6.8 by removing (a) the words "proper bond is given" in the fourth sentence of paragraph (a) and inserting in their place the words "bond is filed on Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter" (b) the words "pursuant to the bond" in the fourth sentence of paragraph (a), and (c) the words "the 4-day bond period" in the fourth sentence of paragraph (e) and inserting in their place the words "the 4-day period after departure".

4. It is proposed to amend the first three sentences of section 6.20(c) by revising them to read as follows:

**6.20 CONDITIONS FOR TRANSPORTATION OF TRANSIT AIR CARGO.**

\* \* \* \* \*

(c) Transit air cargo may be transported to another port only when receipted for by an airline designated as a common carrier, for the transportation of bonded merchandise, which has on file a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter for such transportation. Transit air cargo may be exported from the port of arrival only when covered by a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter relating to exportation of merchandise. The importing airline whether registered in the United States or a foreign country, if it has been designated as a carrier of bonded merchandise as set forth above, may receipt for the air cargo, obligate its bond if it contains the bond conditions set forth in section 113.63 of this chapter, and deliver the air cargo to an

authorized domestic carrier for in-bond transportation beyond the port of arrival under the importing airline bond which covers such movement. \* \* \*

- \* \* \* \* \*
5. It is proposed to amend section 6.22(e) by removing the words "common carrier's bond" in the first sentence of the paragraph and inserting in their place the words "bond containing the bond conditions set forth in section 113.63 of this chapter".

#### PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

It is proposed to amend section 7.8(c) by revising it to read as follows:

##### 7.8 INSULAR POSSESSIONS OF THE UNITED STATES OTHER THAN PUERTO RICO.

\* \* \* \* \*

(c) When merchandise excluding any shipments valued at \$25 or less, arrives unaccompanied by a certificate of origin or a declaration of the shipper, or when any other document necessary to complete entry is lacking, a bond containing the bond conditions set forth in section 113.62 of this chapter, for the production thereof may be taken on Customs Form 301. A bond for production of a bill of lading shall be taken on Customs Form 301 and contain the bond conditions set forth in section 113.69 of this chapter.

#### PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. It is proposed to amend section 10.24(f) by removing the words "an appropriate bond" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

2. It is proposed to amend section 10.31(f) by (a) removing the words "Customs Form 7563" in the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" and (b) revising the third sentence of the paragraph to read as follows:

##### 10.31 ENTRY; BOND.

\* \* \* \* \*

(f) \* \* \* A carnet under the provisions of Part 114 of this chapter may be filed in lieu of a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter. \* \* \*

\* \* \* \* \*

3. It is proposed to amend section 10.31(g) by removing the words "the bond period" in the second sentence of the paragraph and inserting in their place the words "the period of time during which the merchandise may remain in the Customs territory of the United States under bond".

4. It is proposed to amend section 10.36 (b) and (c) by removing (a) the words (i) "the period of the bond" in the first sentence of each paragraph and (ii) "the bond period" in the second sentence of each paragraph, and in each instance inserting in their place the words "the period of time during which the merchandise may remain in the Customs territory of the United States under bond" and (b) the word "bonds" in the second sentence of paragraph (b) and inserting in its place the word "bond".

5. It is proposed to amend the second sentence of section 10.36a(a) by revising it to read as follows:

**10.36a VEHICLES, PLEASURE BOATS AND AIRCRAFT BROUGHT IN  
FOR REPAIR OR ALTERATION.**

(a) \* \* \* The bond, prescribed by section 10.31(f), filed to support entry under this section shall be without surety or cash deposit, except as provided by this paragraph and paragraph (d) of this section. \* \* \*

\* \* \* \* \*  
6. It is proposed to amend the section heading and the first sentence of section 10.37 by revising them to read as follows:

**10.37 EXTENSION OF TIME FOR EXPORTATION.**

The period of time during which merchandise entered under bond under schedule 8, part 5, subpart C, Tariff Schedules of the United States, may remain in the Customs territory of the United States, may be extended for not more than two further periods of 1 year each, or such shorter period as may be appropriate. Extensions may be granted by the district director at the port where the entry was filed upon written application on Customs Form 3173, provided the articles have not been exported or destroyed before the receipt of the application, and liquidated damages have not been assessed under the bond before receipt of the application. \* \* \*

7. It is proposed to amend section 10.38(a) by removing the words "a temporary importation bond" and inserting in their place "schedule 8, part 5, subpart C, Tariff Schedules of the United States".

8. It is proposed to amend section 10.39 by (a) removing the word "bonds" in the section heading and inserting in its place the words "bond charges", (b) removing the word "Bonds" in the first sentence of paragraph (a) and inserting in its place the words "Charges against bonds", (c) removing the word "bond" the first time it is used in the third sentence of paragraph (a) and inserting

in its place the words "bond charge", (d) removing the words "the bond period" in (i) the third sentence of paragraph (a), (ii) the first sentence of paragraph (b), (iii) the first sentence of paragraph (d)(1), (iv) the first sentence of paragraph (e)(2), and (v) the first sentence of paragraph (e)(3) and in each instance inserting in their place the words "the period of time during which the articles may remain in the Customs territory of the United States under bond", and (e) removing the words "to the entire amount of the bond. If the entry covering the articles is charged against a term bond, the demand shall be limited to an amount equal" in the first and second sentences of paragraph (d)(1).

9. It is proposed to amend section 10.40(b), by removing the words "the bond period" in the first sentence of the paragraph and inserting in their place the words "the period of time during which articles may remain in the Customs territory of the United States under bond".

10. It is proposed to amend section 10.41a(c) by removing (a) the words "on Customs Form 7587" in the first and fifth sentences of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.66 of this chapter" and (b) the words (i) "as provided for in section 113.41(p) of this chapter" in the fifth sentence of the paragraph, and (ii) "Customs Form 7587," in the sixth sentence of the paragraph.

11. It is proposed to amend paragraph (h) of section 10.41b by revising it to read as follows:

**10.41b CLEARANCE OF SERIALLY NUMBERED SUBSTANTIAL HOLDERS OR OUTER CONTAINERS.**

\* \* \* \* \*

(h) A continuous bond containing the conditions set forth in section 113.66 of this chapter shall be filed with the district director. If the conditions are violated the district director shall issue a claim for liquidated damages equal to the domestic value of the holder or container established in accordance with section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). If the domestic value exceeds the amount of the bond the claim for liquidated damages will be equal to the amount of the bond.

\* \* \* \* \*

12. It is proposed to amend section 10.49(a) by removing the words "on Customs Form 7565" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

13. It is proposed to amend section 10.59(e) by removing the words "on Customs 7603" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, con-

taining the bond conditions set forth in section 113.62 of this chapter".

14. It is proposed to amend section 10.60 by removing (a) the word "bonds" in the section heading and inserting in its place the word "bond", and (b) the words (i) "on Customs Form 7561 or other appropriate form" in paragraph (c), (ii) "on Customs Form 7557, 7559, or 7595" in the first and second sentences of paragraph (f), and (iii) "on Customs Form 7603 in lieu of any other bond" in paragraph (g) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

15. It is proposed to amend section 10.64(a) by (a) removing the words "the warehouse or rewarehouse entry bond or the bond identified in section 10.60 (c) or (f) for articles withdrawn under section 309, Tariff Act of 1930, as amended, for use as supplies, equipment, or for repair of a vessel" in the first sentence of the paragraph and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" and (b) adding a sentence between the first and second sentences of the paragraph to read as follows:

#### 10.64 CREDITING OR CANCELLATION OF BONDS.

(a) \* \* \* The withdrawer shall cause the merchandise to be delivered to the lading vessel, and shall provide such evidence of lading as required by the district director within 30 days after lading, except as provided in this section. \* \* \*

16. It is proposed to amend section 10.65(c)(3) by removing the words "The bond on Customs Form 7561 or other appropriate form" in the third sentence and inserting in their place the words "A bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

17. It is proposed to amend section 10.66(b) by adding the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" after the word "bond" in both the first and second sentences of the paragraph.

18. It is proposed to amend section 10.67(b) by adding the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" after the word "bond" in the second sentence of the paragraph.

19. It is proposed to amend section 10.71 by removing (a) the words "on Customs Form 7551 or 7553" (i) in the first sentence of paragraph (a), (ii) in the second sentence of paragraph (e), and (iii) in the first sentence of paragraph (f) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" and (b) the word "Such" in paragraph (b) and inserting in its place the words "Charges against the".

20. It is proposed to amend section 10.80 by removing the words "on Customs Form 7561 or other appropriate form" in the sixth sentence of the section and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

21. It is proposed to amend section 10.81(b) by removing the words "on Customs Form 7561 or other appropriate form when necessary" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

22. It is proposed to amend section 10.83(a) by adding the words "charges against the" after the words "the district director may cancel the".

23. It is proposed to amend section 10.90(f) by revising it to read as follows:

10.90 MASTER RECORDS AND METAL MATRICES.

\* \* \* \* \*

(f) A bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter shall be filed for importations under this section.

\* \* \* \* \*

24. It is proposed to amend section 10.92 by removing (a) the word "penalty" in the section heading and inserting in its place the words "liquidated damages", (b) the words "single entry bond on Customs Form 7547, unless the transaction is charged against a term bond on Customs Form 7547, or other appropriate form" in the first sentence of paragraph (a) and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter", (c) the words "The penalty of the" in the second sentence of paragraph (a) and inserting in their place the word "A", (d) the words "The penalty of the term bond" in the third sentence of paragraph (a) and inserting in their place the words "The amount of a continuous bond", and (e) the word "term" in paragraph (b) and in the first and second sentences of paragraph (c) and in each instance inserting in their place the word "continuous".

25. It is proposed to amend section 10.108(b) by removing the words "as provided for in section 143.3" in the last sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62".

26. It is proposed to remove the last sentence of section 10.135.

27. It is proposed to amend section 10.173(a)(3) by removing (a) the words "Customs Form 7551, 7553, or 7595" in the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter," and (b) the second sentence of the paragraph.

**PART 11—PACKING AND STAMPING; MARKING**

1. It is proposed to amend section 11.12(c) by removing the words "the usual Customs single entry or term bond in such amount as is prescribed for such bonds in section 113.14 of this chapter" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 or section 113.68 of this chapter, as appropriate, in such amount as the district director may require".

2. It is proposed to amend section 11.12a(c) by removing the words "the usual Customs single entry or term bond in such amounts as is prescribed for such bonds in section 113.14 of this chapter" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 or section 113.68 of this chapter, as appropriate, in such amount as the district director may require".

3. It is proposed to amend section 11.12b(c) by removing the words "the usual Customs single entry or term bond in such amount as is prescribed for such bonds in section 113.14 of this chapter" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, in such amount as the district director may require".

**PART 12—SPECIAL CLASSES OF MERCHANDISE**

1. It is proposed to amend section 12.3 by removing the words "on Customs Form 7551, 7553, or 7595, containing a condition for the return of the merchandise, or any part thereof, to Customs custody upon demand of the district director of Customs" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

2. It is proposed to amend section 12.8 by removing the words (a) "on Customs Form 7551, 7553, or other appropriate form" in the third sentence of paragraph (a) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" and (b) "of bonds" in the first sentence of paragraph (b) and inserting in their place the words "of a bond".

3. It is proposed to amend section 12.12 by removing the words "on Customs Form 7551, 7553, or other appropriate form" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

4. It is proposed to amend section 12.16(c) by (a) placing a period after the word "bond" the first time it is used in the paragraph, and (b) removing the remainder of the paragraph and inserting in its place the words "The bond shall be filed with the district director on Customs Form 301 and contain the bond conditions set forth

in section 113.62 of this chapter. In case of default the district director shall issue a claim for liquidated damages under the bond."

5. It is proposed to amend section 12.26(e) by (a) removing the word "collector" in the second sentence of the paragraph and inserting in its place the words "district director", and (b) revising the third and fourth sentences of the paragraph to read as follows:

**12.26 IMPORTATIONS OF WILD ANIMALS, FISH, AMPHIBIANS, REPTILES, MOLLUSKS, AND CRUSTACEANS; PROHIBITED AND ENDANGERED SPECIES; DESIGNATED PORTS OF ENTRY; PERMITS REQUIRED.**

\* \* \* \* \*

(e) \* \* \* The shipment may be immediately released if a bond is filed with the district director on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, in an amount equal to the entered value plus estimated duties. If the bond conditions are violated the district director shall issue a claim for liquidated damages under the bond. In lieu of filing a bond the merchandise may be left in Customs custody at the risk and expense of the importer pending issuance of the permit.

\* \* \* \* \*

6. It is proposed to amend section 12.26(h) by removing the words "The bond shall be forfeited" and inserting in their place the words "a claim for liquidated damages shall be issued under the bond".

7. It is proposed to amend section 12.33 by removing and reserving paragraph (c).

8. It is proposed to amend section 12.39(b) (2) and (3) by removing (a) the words "a special rider to existing entry bonds, as described in section 113.14(z) of this chapter" in the first sentence of paragraph (b)(2) and inserting in their place the words "a single entry bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter in an amount determined by the International Trade Commission" and (b) the word "rider" in the third sentence of paragraph (b)(3).

9. It is proposed to amend section 12.73(c) by removing (a) the words "on Customs Form 7551, 7553, or 7595" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter", (b) the second sentence of the paragraph, (c) the words "a bond given on Form 7551" in the fifth sentence of the paragraph and inserting in their place the words "the bond, if it is a single entry bond, or if a continuous bond is used the amount that would have been taken under a single entry bond" and (d) the sixth sentence of the paragraph.

10. It is proposed to amend section 12.80(b)(1)(iii), (e)(1) and (e)(2) by (a) removing the words "the conditions of the bond required by paragraph (e)(1) of this section have been satisfied" in last sentence

of paragraph (b)(1)(iii) and inserting in their place the words "the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards" (b) removing the words "on Customs Form 7551, 7553, or 7595 in the amount required by section 113.14 of this chapter" in the first sentence of paragraph (e)(1) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter", (c) removing the second sentence of paragraph (e)(1), (d) removing the words "The bond release" in the third sentence of paragraph (e)(1) and inserting in their place the words "An approval", (e) removing the words "bond release" in the fourth sentence of paragraph (e)(1) and inserting in their place the word "approval", (f) adding a sentence at the end of section (e)(1) to read as follows:

#### 12.80 FEDERAL MOTOR VEHICLE SAFETY STANDARDS.

\* \* \* \* \*

(e)(1) \* \* \* Upon receipt of the approval letter the district director shall cancel the charge against the bond.

\* \* \* \* \*

(g) removing the words "bond release" in the first sentence of paragraph (e)(2) and inserting in their place the word "approval", (h) removing the words "given on Customs Form 7551" in the second sentence of paragraph (e)(2) and inserting in their place the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond" and (i) removing the third sentence of paragraph (e)(2).

11. It is proposed to amend section 12.85(e) by removing (a) the words (i) "in the amount prescribed by section 113.14 of this chapter" and (ii) "on Customs Form 7551, 7553, or 7595" in the first sentence of subparagraph (1) and in the latter removal inserting in its place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, in such amount as the district director deems appropriate.", (b) the words "given on Customs Form 7551" in the first sentence of subparagraph (3) and inserting in their place the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond" and (c) the second sentence of subparagraph (3).

12. It is proposed to amend section 12.91(d) by removing (a) the words "on Customs Form 7551, 7553, or 7595" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter," (b) the words "the amount required under section 113.14 of this chapter" in the second sentence of the paragraph and inserting in their place the words "an amount deemed appropriate by the district director" (c) the words "given on Form 7551" in the fifth sentence of the paragraph and inserting in their

place the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond", and (d) the sixth sentence of the paragraph.

13. It is proposed to amend section 12.115 by removing the words (a) "on Customs Form 7551, 7553, or 7595" in the second sentence of the section and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter," and (b) "the amount required under section 113.14 of this chapter" in the third sentence of the section and inserting in their place the words "an amount deemed appropriate by the district director".

14. It is proposed to amend section 12.117(b), by (a) removing the word "assess" in the third sentence of the paragraph and inserting in its place the words "issue a demand for" and (b) adding the words "if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond" at the end of the third sentence of the paragraph.

#### PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. It is proposed to amend section 18.3(e) by removing the words "Carrier's Bond" and inserting in their place the words "bond of the carrier on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter".

2. It is proposed to amend section 18.20(b) by removing the words "on Customs Form 7557" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

3. It is proposed to amend section 18.25 by (a) redesignating paragraph (e) as paragraph (f), (b) adding a new paragraph (e) as set forth below, and (c) revising the first sentence of paragraph (b) and the second sentence of paragraph (d) to read as follows:

##### 18.25 DIRECT EXPORTATION.

\* \* \* \* \*

(b) A bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, shall be required. \* \* \*

\* \* \* \* \*

(d) \* \* \* A charge shall be made against the continuous bond on Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter, if on file, or if a continuous bond is not on file, a single entry bond containing the bond conditions set forth in section 113.64 shall be required as in the case of residue cargo for foreign ports. \* \* \*

(e) The principal on any bond filed to guarantee direct exportation shall cause the merchandise to be exported and provide such evidence of exportation as required by the district director under section 113.55 of this chapter within 30 days of exportation.

\* \* \* \* \*

4. It is proposed to amend section 18.26 by (a) removing the words "section 18.25(a)" in the first sentence of paragraph (a) and inserting in their place the words "section 18.25(d)", (b) adding a new paragraph (d), and (c) revising the second sentence of paragraph (a) to read as follows:

#### 18.26 INDIRECT EXPORTATION.

(a) \* \* \* Upon acceptance of the entry by Customs and acceptance of the merchandise by the bonded carrier, the bonded carrier assumes liability for the transportation and exportation of the merchandise. \* \* \*

\* \* \* \* \*

(d) The bonded carrier shall cause the merchandise to be exported and provide such evidence of exportation as required by the district director under section 113.55 of this chapter within 30 days of exportation.

### PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. It is proposed to amend section 19.2 by removing the words (a) "in the form prescribed by T.D. 82-204" (i) in paragraph (c) and (ii) in the first and second sentences of paragraph (d) and inserting in their place in each instance the words "on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter" and (b) "proprietor's warehouse bond" in the first sentence of paragraph (e) and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter".

2. It is proposed to amend section 19.11(c) by adding a sentence at the beginning of the paragraph to read as follows:

#### 19.11 MANIPULATION IN BONDED WAREHOUSES AND ELSEWHERE.

\* \* \* \* \*

(c) Warehouse proprietors shall not allow manipulation of merchandise without a permit issued by the district director.

\* \* \* \* \*

3. It is proposed to amend section 19.14 by (a) revising paragraph (b) to read as follows:

**19.14 MATERIALS FOR USE IN MANUFACTURING WAREHOUSE.**

(b) *Bond required.* Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter shall be required.

(b) removing the words "a bond on Customs Form 7571 shall be required unless the warehouse is covered by the appropriate bond in the form prescribed by T.D. 82-204" in paragraph (d) and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

4. It is proposed to amend section 19.15 by (a) removing the third, fourth and fifth sentences in paragraph (g)(1) and inserting in their place the following:

**19.15 WITHDRAWAL FOR EXPORTATION OF ARTICLES MANUFACTURED IN BOND; WASTE OR BYPRODUCTS FOR CONSUMPTION.**

(g)(1) \* \* \* A rewarehouse entry shall be made in accordance with section 144.34(b) of this chapter, supported by a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter.

(b) the word "general" in paragraph (1).

5. It is proposed to amend section 19.16(g)(1) by removing the words "the Proprietor's Manufacturing Warehouse Bond in the form prescribed by T.D. 82-204" in the last sentence of the paragraph and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter".

6. It is proposed to amend section 19.17 by removing (a) paragraph (b) and reserving the paragraph, and (b) the second sentence of paragraph (e) and inserting in its place the following sentence:

**19.17 APPLICATION TO ESTABLISH WAREHOUSE; BOND.**

(e) *Bond.* \* \* \* A bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter shall be on file. \* \* \*

7. It is proposed to amend section 19.40 by revising it to read as follows:

**19.40 ESTABLISHMENT OF CONTAINER STATIONS.**

A container station, independent of the importing carrier, may be established at any port or portion of a port, or any

other area under the jurisdiction of a district director upon the filing of an application therefore and its approval by the district director and the posting of a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter in such amount as the district director shall require.

#### PART 22—DRAWBACK

1. It is proposed to amend section 22.7(d)(2)(ii) by inserting the words "on Customs Form 301, containing the bond conditions set forth in section 113.65 of this chapter" after the words "exporter—claimant".
2. It is proposed to amend section 22.20a by removing (a) the words "on either Customs Form 7609 or 7611" in the second sentence of the section and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.65 of this chapter" and (b) the third, forth and fifth sentences of the section.
3. It is proposed to amend section 22.28(b) by removing the words "under a temporary importation bond".

#### PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. It is proposed to amend section 24.1(a)(3) by removing the words "an entry bond or other" in the first sentence of the paragraph and inserting in their place the word "a".
2. It is proposed to amend section 24.4(i) by revising it to read as follows:

##### 24.4 OPTIONAL METHOD FOR PAYMENT OF ESTIMATED IMPORT TAXES ON ALCOHOLIC BEVERAGES UPON ENTRY, OR WITHDRAWAL FROM WAREHOUSE, FOR CONSUMPTION.

\* \* \* \* \*

- (i) *Duration of deferred payment privilege.* The deferred payment privilege once approved by the district director will remain in effect until terminated under the provisions of paragraph (h) or the importer or surety requests termination.

\* \* \* \* \*

3. It is proposed to amend section 24.11 by (a) revising paragraph (a)(2) to read as follows:

##### 24.11 INCREASED OR ADDITIONAL DUTIES OR TAXES; NOTICE TO IMPORTER.

(a) \* \* \*

- (2) A bond as required by section 141.20 on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter.

\* \* \* \* \*

(b) removing the words "In any case in which a timely owner's declaration, but not a timely superseding bond, has been filed," in paragraph (b) and inserting in their place the words "In any case in which an owner's declaration has been filed timely but the bond has not been filed timely,"

4. It is proposed to amend section 24.16(c) by (a) removing the words (i) "on Customs Form 7597 or 7599" in the third sentence of paragraph (c)(1) and (ii) "on Customs Form 7597" in the fourth sentence of paragraph (c)(1) and in each instance inserting in their place the words "on Customs Form 301, containing the appropriate bond conditions set forth in subpart G, Part 113 of this chapter (see sections 113.62, 113.63, 113.64 and 113.73)", (b) removing the words "bond on Customs Form 7599" in the first sentence of paragraph (c)(3) and inserting in their place the words "a continuous bond" and (c) removing the words "nor longer than the period of the supporting bond" in the first sentence of paragraph (c)(3).

#### PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

It is proposed to amend the first and second sentences of section 54.6(b) by revising them to read as follows:

##### 54.6 Proof of intent; bond; proof of use; liquidation.

\* \* \* \* \*

(b) If the articles are entered for consumption or warehouse, a bond shall be filed on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter. Withdrawals from warehouse shall be made on Customs Form 7506. \* \* \*

\* \* \* \* \*

#### PART 101—GENERAL PROVISIONS

It is proposed to amend section 101.1 by redesignating paragraphs (k), (l) and (m) as paragraphs (1), (m) and (n), respectively; and adding a new paragraph (k) to read as follows:

##### 101.1 DEFINITIONS.

\* \* \* \* \*

(k) *Exportation.* "Exportation" means a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable ac-

cording to its nature, weight, and value at the time of its original arrival in this country.

\* \* \* \* \*

#### PART 112—CARRIERS, CARTMEN, AND LIGHTERMAN

1. It is proposed to amend section 112.11(a)(4)(ii) by removing the words "Customs Form 3588, 'Private Carriers Bond'" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter".

2. It is proposed to amend section 112.12(a) by removing the words "on Customs Form 3587 (except private carriers which file on Customs Form 3588 and airline companies which have the option to file a consolidated aircraft bond, Customs Form 7605 or the Customs Form 3587)" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter".

3. It is proposed to amend section 112.22(a)(1) by revising it to read as follows:

#### 112.22 APPLICATION FOR LICENSE.

(a) *General requirements.* \* \* \*

(1) A bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter, in an amount specified by the district director, is required.

\* \* \* \* \*

4. It is proposed to amend section 112.25 by removing (a) the words "carrier's bond, Customs Form 3587, or a carrier who has filed a private carrier's bond, Customs Form 3588" in the first sentence of the section and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter", (b) the words "a carrier's bond" in the second sentence of the section and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter", and (c) the words "a bond on Customs Form 3855" in the second sentence of the section and inserting in their place the words "another bond".

5. It is proposed to amend section 112.26 by removing the words "section 113.56" and inserting in their place the words "section 113.26".

6. It is proposed to amend section 112.27 (d) by removing the words "in accordance with the provisions of the bond, Customs Form 3855, or the cartman or lighterman shall be liable for the payment of liquidated damages as provided in such bond".

7. It is proposed to amend section 112.49 (d) by revising the last sentence of the paragraph and removing the bond format for the Bond of Customs Cartman for Issuance of Temporary Identification Card. The amendments read as follows:

**112.49 TEMPORARY IDENTIFICATION CARDS.**

\* \* \* \*

(d) *Bond.* \* \* \* The bond shall be on Customs Form 301 and contain the bond conditions set forth in section 113.63 of this chapter.

**PART 113—CUSTOMS BONDS**

It is proposed to revise Part 113, Customs Regulations, to read as follows:

**113.0 SCOPE.****SUBPART A—GENERAL PROVISIONS**

- 113.1 Authority to require security or execution of bond.
- 113.2 Powers of Commissioner of Customs relating to bonds.
- 113.3 Liability of surety on a terminated bond.
- 113.4 Bonds and carnets.

**SUBPART B—BOND APPLICATION AND APPROVAL OF BOND**

- 113.11 Bond approval.
- 113.12 Bond application.
- 113.13 Amount of bond approved by the district director.
- 113.14 Approved form of bond inadequate.
- 113.15 Retention of approved bonds.

**SUBPART C—BOND REQUIREMENTS**

- 113.21 Information required on the bond.
- 113.22 Witnesses required.
- 113.23 Changes made on the bond.
- 113.24 Riders.
- 113.25 Seals.
- 113.26 Termination of bond.

**SUBPART D—PRINCIPALS AND SURETIES**

- 113.31 Information pertaining to principals and sureties on the bond.
- 113.32 Same party as principal and surety; attorney in fact.
- 113.33 Partnerships as principals.
- 113.34 Corporations as principals.
- 113.35 Individual sureties.
- 113.36 Partner acting as surety on behalf of a partner or on behalf of a partnership.
- 113.37 Corporate sureties.
- 113.38 Delinquent sureties.
- 113.39 Procedure to remove a surety from Treasury Department Circular 570.
- 113.40 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

**SUBPART E—PRODUCTION OF DOCUMENTS**

- 113.41 Entry made prior to production of documents.
- 113.42 Time period for production of documents.
- 113.43 Extension of time period.
- 113.44 Assent of sureties to an extension of a bond.

- 113.45 Charge for production of a missing document made against a continuous bond.
- 113.46 Cancellation of bond charges resulting from failure to produce documents.

#### SUBPART F—ASSESSMENT OF DAMAGES AND CANCELLATION OF BOND

- 113.51 Cancellation of bond or charge against the bond.
- 113.52 Failure to satisfy the bond.
- 113.53 Waiver of Customs requirement supported by a bond.
- 113.54 Cancellation of erroneous charges.
- 113.55 Cancellation of export bonds.

#### SUBPART G—CUSTOMS BOND CONDITIONS

- 113.61 General.
- 113.62 Basic importation and entry bond conditions.
- 113.63 Basic custodial bond conditions.
- 113.64 International carrier bond conditions.
- 113.65 Repayment of erroneous drawback payment bond conditions.
- 113.66 Control of containers and instruments of international traffic bond conditions.
- 113.67 Licensed public gauger bond conditions.
- 113.68 Wool and fur products labeling acts bond conditions.
- 113.69 Production of bill of lading bond conditions.
- 113.70 Bond condition to indemnify United States for detention of copyrighted material.
- 113.71 Bond condition to observe neutrality.
- 113.72 Bond condition to pay court costs (condemned goods).
- 113.73 Foreign trade zone operator bond conditions.

#### 113.0 SCOPE.

This part sets forth the general requirements applicable to bonds. It contains the general authority and powers of the Commissioner of Customs in requiring bonds, bond approval and execution, bond conditions, general and special bond requirements, the requirements which must be met to be either a principal or a surety, the requirements concerning the production of documents, the authority and manner of assessing liquidated damages and requirements for cancelling the bond or charges against a bond.

#### SUBPART A—GENERAL PROVISIONS

##### 113.1 AUTHORITY TO REQUIRE SECURITY OR EXECUTION OF BOND.

Where a bond or other security is not specifically required by law, the Commissioner of Customs, pursuant to Treasury Department Order No. 165 Revised, as amended (T.D. 53654, 19 FR 7241), may by regulation or specific instruction require, or authorize the district director to require, such bonds or other security considered necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction.

##### 113.2 POWERS OF COMMISSIONER OF CUSTOMS RELATING TO BONDS.

Whenever a bond is required or authorized by law, regulation, or instruction, the Commissioner of Customs may:

(a) Prescribe the conditions and form of the bond and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided by law.

(b) Provide for the approval of the sureties on the bond, without regard to any general provision of law.

(c) Authorize the execution of a term bond, the conditions of which shall extend to and cover similar cases of importations over a period of time, not to exceed one year or such longer period he may fix, when in his opinion special circumstances warrant a longer period.

(d) Authorize the taking of a consolidated bond (single entry or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulation, or instruction. Such a consolidated bond shall have the same force and effect as the separate bonds in lieu of which it was taken. The Commissioner of Customs may fix the penalty for violation of a consolidated bond without regard to any other provision of law, regulation, or instruction.

### 113.3 LIABILITY OF SURETY ON A TERMINATED BOND.

The surety, as well as the principal, remains liable on a terminated bond for obligations incurred prior to termination.

### 113.4 BONDS AND CARNETS.

(a) *Bonds*. All bonds required to be given under the Customs laws or regulations shall be known as Customs bonds.

(b) *Carnets*. A carnet is an international customs document which serves simultaneously as a customs entry document and as a customs bond. Therefore, carnets, provided for in Part 114 of this chapter, are ordinarily acceptable without posting further security under the Customs laws or regulations requiring bonds.

## SUBPART B—BOND APPLICATION AND APPROVAL OF BOND

### 113.11 BOND APPROVAL.

Each person who is required by law, regulation, or specific instruction to post a bond to secure a Customs transaction or multiple transactions must submit the bond on Customs Form 301. If the transaction(s) will occur in a single Customs district, the bond shall be filed with and approved by the district director of the district in which the transaction(s) will take place. If the transactions will occur in more than one district the bond may be filed with and approved by any district director. The district director will determine whether the bond is in proper form and provides adequate security for the transaction(s).

### 113.12 BOND APPLICATION.

(a) *Single entry bond application*. In order to insure that the revenue is adequately protected the district director may require a person who will be engaged in a single Customs transaction relating to the importation or entry of merchandise to file a written

bond application which may be in the form of a letter. The application shall identify the value and nature of the merchandise involved in the transaction to be secured.

(b) *Continuous bond application.* If a person wants to secure multiple transactions relating to the importation or entry of merchandise or the operation of a bonded smelting or refining warehouse, a bond application, which may be in the form of a letter, shall be submitted to the district director.

(1) *Information required.* The application shall contain the following information:

(i) The general character of the merchandise to be entered; and  
(ii) The total amount of ordinary Customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise to be collected by Customs. The total amount of duties and taxes shall be that which would have been required to be deposited had the merchandise been entered for consumption even though some or all of the merchandise may have been entered under bond. If the value or nature of the merchandise to be imported will change in any material respect during the next year the change shall be identified. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year shall be submitted.

(2) *Application updates.* If the district director approves a bond based upon the application, whenever there is a significant change in the information provided under paragraph (a), the principal on the bond shall submit a new application containing an update of the information required by subparagraph (1) of this paragraph. The new application shall be filed no later than 30 days after the new facts become known to the principal.

(c) *Certification.* Any application submitted under this section shall be signed by the applicant and contain the following certification:

I certify that the factual information contained in this application is true and accurate and any information provided which is based upon estimates is based upon the best information available on the date of this application.

#### 113.13 AMOUNT OF BOND APPROVED BY THE DISTRICT DIRECTOR.

(a) *Minimum amount of bond.* The amount of any Customs bond approved by the district director shall not be less than \$100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar shall be disregarded in computing the amount of a bond. The bond always shall be stated as the next highest dollar.

(b) *Guidelines for determining amount of bond.* In determining whether the amount of a bond is sufficient, the district director should at least consider:

(1) The prior record of the principal in timely payment of duties, taxes, and charges with respect to the transaction(s) involving such payments;

(2) The prior record of the principal in complying with Customs demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of Customs and other laws and regulations;

(3) The value and nature of the merchandise involved in the transaction(s) to be secured;

(4) The degree and type of supervision that Customs will exercise over the transaction(s);

(5) The prior record of the principal in honoring bond commitments, including the payment of liquidated damages; and

(6) Any additional information contained in any application for a bond.

(c) *Periodic review of bond sufficiency.* The district directors shall periodically review each bond filed in their district to determine whether the bond is adequate to protect the revenue and insure compliance with the law and regulations. If the district director determines that the bond is inadequate, the principal shall be immediately notified in writing. The principal shall have 30 days from the date of notification to remedy the deficiency.

(d) *Additional security.* Notwithstanding the provisions of this section or any other provision of this chapter, if a district director believes that acceptance of a transaction secured by a continuous bond would place the revenue in jeopardy or otherwise hamper the enforcement of Customs laws or regulations, he shall require additional security.

#### 113.14 APPROVED FORM OF BOND INADEQUATE.

If the district director believes that none of the conditions contained in subpart G of this Part is applicable to a transaction sought to be secured, the district director shall draft conditions which will cover the transaction, but before execution of the bond the conditions shall be submitted to Headquarters, Attention: Director, Carriers, Drawback and Bonds Division, for approval.

#### 113.15 RETENTION OF APPROVED BONDS.

All bonds approved by the district director, except the bond containing the agreement to pay court costs (condemned goods) (see section 113.72) shall remain on file in the district office unless the district director is directed in writing by the Director, Carriers, Drawback and Bonds Division, as to other disposition. The bond containing the agreement to pay court costs (condemned goods), shall be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608).

**SUBPART C—BOND REQUIREMENTS****113.21 INFORMATION REQUIRED ON THE BOND.**

(a) *Identification of principal and sureties.* The names of the principal and sureties and their respective places of residence shall appear in the bond. In the case of a corporate principal or surety, its legal designation and the address of its principal place of business shall appear.

(b) *Date of execution.* Each bond shall bear the date it was actually executed.

(c) *Statement of the amount.* The amount of the bond shall be stated in figures.

(d) *Use of abbreviations.* Abbreviations shall not be used except in dates and the state of incorporation of the principal or the surety.

(e) *Blank spaces on the bond.* Lines shall be drawn through all spaces and blocks on the bond which are not filled in.

**113.22 WITNESSES REQUIRED.**

(a) *Generally.* The signature of each party to a bond executed by a noncorporate principal or surety shall be witnessed by two persons, who shall sign their names as witnesses, and include their addresses.

(b) *Witness for both principal and surety.* When two persons signing as witnesses act for both principal and surety, they shall so indicate by stating on the bond "as to both".

(c) *Corporate principal or surety.* No witnesses are required where bonds are executed by properly authorized officers or agents of a corporate principal or corporate surety. For requirements concerning the execution of a bond by an authorized officer or agent of a corporate principal or surety, see sections 113.34 and 113.37 of this Part.

**113.23 CHANGES MADE ON THE BOND.**

(a) *Definition of the types of changes.*

(1) *Modification or interlineation.* Modifications or interlineations are changes which go to the substance of the bond, or are basic revisions of the bond.

(2) *Alterations or erasures.* Alterations or erasures consist of minor changes, such as the correction of typographical errors, or change of address, which do not go to the substance, or result in basic revision of the bond.

(b) *Prior to signing.* When erasures, alterations, modifications, or interlineations are made on the bond prior to its signing by the parties to the bond, a statement by an agent of the surety company or by the personal sureties to that effect shall be placed upon the bond.

(c) *After signing.* If erasures or alterations are made after the bond is signed, but prior to the approval of the bond by Customs,

the consent of all the parties shall be written on the bond. Except in cases where a change in the bond is expressly authorized by regulation, or by the Commissioner, no modification or interlineation shall be made on the bond after execution. When a modification or interlineation is desired, a new bond will be executed.

(d) *After approval of the bond by Customs.* Except in cases where a change in the bond is expressly authorized by regulations, or instructions from the Commissioner, the district director shall not permit a change as defined in paragraph (a) of this section after the bond has been approved by Customs. When changes are desired, a new bond is required, which, when approved, shall supersede the existing bond.

#### 113.24 RIDERS.

(a) *Types of riders.* The district director may accept the following types of bond riders.

(1) *Name change of principal.* A bond rider to change the name of a principal on a bond may be used only when the change in name does not change the legal identity or status of the principal. If a new corporation is created as a result of a merger, reorganization or similar action, a bond rider for a name change of the principal can not be used. A new bond would be required.

(2) *Addition of co-principal.* A bond rider for the addition of a co-principal may be used by persons having a distinct legal status (e.g. individuals, partnerships, corporations) to join another person with the same distinct legal status as a co-principal on a bond. This bond rider shall not be used to join an entity which does not have a distinct legal status (e.g. an unincorporated division of a corporation). This bond rider may not be used to join different legal entities as co-principals (e.g. an individual and a corporation, a partnership and a corporation).

(3) *Address change.* A bond rider may be used to change the address of a principal on a bond.

(4) *Addition of trade names and unincorporated divisions of a corporate principal.* A bond rider may be used to add to a bond trade names and the names of unincorporated divisions of a corporate principal which do not have a separate and distinct legal status.

(b) *Attachment of rider to bond.* All riders expressly authorized by the Commissioner shall be securely attached to the related bond to prevent their loss or misplacement.

(c) *Format of Rider.* The riders shall be signed, sealed, witnessed, executed, include a certificate as to corporate principal, if applicable, and otherwise comply with the requirements of this Part. The riders shall contain the following conditions:

(1) *Name change of principal.*

By this rider to the Customs Form 301, \_\_\_\_\_ (bond number), dated \_\_\_\_\_, executed by \_\_\_\_\_, (former name), as principal, \_\_\_\_\_, (importer number),

the, \_\_\_\_\_ (new name), hereby certifies that it is the same entity formerly known as \_\_\_\_\_, (former name), and the principal and surety agree that they are responsible for any act secured by this bond done under principal's former name. Principal and surety agree to be bound under this bond to the same extent as if this bond had been executed in the principal's new name.

(2) *Addition of co-principal.*

By this rider to the Customs Form 301, \_\_\_\_\_ (bond number) executed on \_\_\_\_\_, (date), by \_\_\_\_\_, (principal's name), as principal, \_\_\_\_\_ (importer number) and \_\_\_\_\_, (surety name and code), as surety, the principal and surety intend that this bond secure any act done by \_\_\_\_\_, (co-principal name), as co-principal, to the same extent as if the co-principal had jointly executed this bond with the principal and surety.

(3) *Address change.*

By this rider to Customs Form 301, \_\_\_\_\_ (bond number) executed on \_\_\_\_\_, (date), by \_\_\_\_\_, (principal's name), as principal, \_\_\_\_\_, (importer number) and \_\_\_\_\_, (surety's name and code), as surety, the principal and surety or both, intend that the bond be amended to show \_\_\_\_\_ (new address) as their address. The principal, surety or both, as may be appropriate agree to be bound as though this bond has been executed with the new address(s) shown.

(4) *Addition of trade names and unincorporated divisions of a corporate principal.*

By this rider to the Customs Form 301, \_\_\_\_\_, (bond number) executed on \_\_\_\_\_, (date), by \_\_\_\_\_, (principal's name), as principal, \_\_\_\_\_, (importer number) and \_\_\_\_\_, (surety name and code), as surety, the principal and surety agree that the listed names are unincorporated units of the principal or are trade or business names used by the principal in its business and that this bond covers any act made in those names to the same extent as though done in the name of the principal. The principal and surety agree that any such act shall be considered to be the act of the principal.

113.25 SEALS.

When a seal is required, the seal shall be affixed adjoining the signatures of principal and sureties, if individuals, and the corporate seal shall be affixed close to the signatures of persons signing on behalf of a corporation. Bonds shall be under seal in accordance with the law of the state in which executed. However, when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

**113.26 TERMINATION OF BOND.**

(a) *Termination by principal.* A request by a principal to terminate a bond shall be made in writing to the district director in whose district the bond was approved. The termination shall take effect on the date requested if the date is at least 10 business days after the date of receipt of the request otherwise the termination shall be effective on the close of business 10 business days after the request is received at the district office. If no termination date is requested, the termination shall take effect on the tenth business day following the date of receipt of the request by the district director.

(b) *Termination by surety.* A surety may, with or without the consent of the principal, terminate a Customs bond on which it is obligated. The surety shall provide reasonable written notice to both the district director in whose district the bond was approved and the principal of the intent to terminate. The written notice shall state the date on which the termination shall be effective and shall be sent to both Customs and the principal by certified mail, with a return receipt requested. Thirty days shall constitute reasonable notice unless the surety can show to the satisfaction of the district director that a lesser time is reasonable under the facts and circumstances.

(c) *Effect of Termination.* If a bond is terminated no new Customs transactions shall be charged against the bond. A new bond in an appropriate amount on Customs Form 301, containing the appropriate bond conditions set forth in subpart G of this Part, shall be filed before further Customs activity may be transacted.

**SUBPART D—PRINCIPALS AND SURETIES****113.31 INFORMATION PERTAINING TO PRINCIPALS AND SURETIES ON THE BOND.**

The general information pertaining to the principal and sureties which must be given in the body of the bond is set forth in section 113.21.

**113.32 SAME PARTY AS PRINCIPAL AND SURETY; ATTORNEY IN FACT.**

(a) *Same party as principal and surety.* The same person, partnership, or corporation cannot be both principal and surety on a bond.

(b) *Attorney in fact for principal or surety.* In executing a bond, a person may act as: (1) Attorney in fact for both principal and surety; (2) Surety and attorney in fact for the principal; or (3) Principal and attorney in fact for the surety.

**113.33 PARTNERSHIPS AS PRINCIPALS.**

(a) *Name of partners on the bond.* Unless written notice of the full names of all partners in the firm has been previously filed with the district director, the names of all persons composing the partnership shall appear in the body of the bonds; for example,

"Aaron A. Abel, Bertrand B. Bell and Charles C. Cole," composing the firm of Abel, Bell, Cole and Co.

(b) *Execution.* Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.

(c) *Action of one principal binding on all principals of the partnership.* Pursuant to section 495, Tariff Act of 1930 (19 U.S.C. 1495), when a Customs bond is executed by any member of the partnership, the bond shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution.

#### 113.34 CORPORATIONS AS PRINCIPALS.

(a) *Name of corporation on the bonds.* The name of a corporation executing a Customs bond as a principal, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(b) *Signature and seal of the corporation on the bond.* The bond of a corporate principal shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in section 113.25.

(c) *Bond executed by an officer of corporation.* When the bond is executed by an officer of a corporation and no power of attorney has been filed with the district director, the following evidence of this authority to act shall be furnished:

(1) *Execution of Certificate as to Corporate Principal.* The official character, authority, and signature of the person or persons executing the bond for the corporate principal may be certified by the secretary, assistant secretary, or other officer of the corporation. The certification shall be made by executing, under corporate seal, the provisions appearing in the bond entitled "Certificate as to Corporate Principal."

(2) *Evidence in lieu of the certificate.* In lieu of the above certificate, there may be attached to the bond so much of the records of the corporation as will show the official character, authority, and signature of the officer signing. The following documents should be attached.

(i) A certificate from the proper public official showing the legal existence of the corporation. A district director may waive the production of evidence of incorporation when this is a matter of common knowledge and the district director certifies this fact on Customs Form 301.

(ii) A copy of the bylaws, or so much thereof as authorizes the execution of bonds, certified by the secretary of the corporation and authenticated by its corporate seal.

(iii) A copy of the document authorizing the officer to sign the bond, certified by the secretary of the corporation under the corpo-

rate seal, or a power of attorney executed in accordance with sub-part C, Part 141 of this chapter containing this authority.

(iv) A document verifying the signature of the officer properly attested under the corporate seal.

(d) *Bond executed by an attorney in fact.* When an attorney in fact executes a bond on behalf of a corporate principal and a power of attorney has not been filed with the district director (unless exempted from filing by section 141.46 of this chapter), there shall be attached a power of attorney executed under the corporate seal by an officer of the corporation whose authority to execute the power shall be shown as prescribed in paragraph (c) of this section.

(e) *Subsidiaries as co-principals.* The provisions of this section shall be applicable to each corporate subsidiary which joins its parent corporation by signing the bond as co-principal.

#### 113.35 INDIVIDUAL SURETIES.

(a) *Number required.* If individuals sign as sureties, there shall be two sureties on the bond, unless the district director is satisfied that one surety is sufficient to protect the revenue and insure compliance with the law and regulations.

(b) *Qualifications to act as surety.*

(1) *Residency and citizenship.* Each individual surety on a Customs bond must be both a resident and citizen of the United States.

(2) *Married women.* A married woman may be accepted as a surety, unless the state in which the bond is executed prohibits her from acting in that capacity.

(3) *Granting of power of attorney.* Any individual other than a married woman in a state where she is prohibited from acting as a surety may grant a power of attorney to sign as surety on Customs bonds. Unless the power is unlimited, all persons to whom the power relates shall be named.

(4) *Property requirements.* Each individual surety must have property available as security within the limits of the Customs district in which the contract of suretyship is to be approved. The current market value of the property less any encumbrance must be equal to or greater than the amount of the bond. If one individual surety is accepted, the individual surety must have property the value of which, less any encumbrance, is equal to or greater than twice the amount of the bond.

(c) *Oath and evidence of solvency.* Before being accepted as a surety, the individual shall:

(1) Take an oath on Customs Form 3579, setting forth:

(i) The amount of assets over and above all debts and liabilities and such exemptions as may be allowed by law; and

(ii) The general description and the location of one or more pieces of real estate owned within the limits of the Customs district and the value thereof over and above all encumbrances.

(2) Produce such evidence of solvency and financial responsibility as the district director may require.

(d) *Determination of financial responsibility.* An individual surety shall not be accepted on a bond until the district director is satisfied as to the financial responsibility of the individual. The district director may refer the matter to the special agent-in-charge for immediate investigation to verify the financial responsibility of the surety.

(e) *Continuancy of financial responsibility.* In order to follow the continued solvency and financial responsibility of individual sureties, the district director shall require a new oath and determine the financial responsibility of each individual surety as prescribed in paragraphs (c) and (d) of this section at least once every 6 months, and more often if deemed advisable.

#### 113.36 PARTNER ACTING AS SURETY ON BEHALF OF A PARTNER OR ON BEHALF OF A PARTNERSHIP.

A member of a partnership shall not be accepted as an individual surety on a bond executed by the partnership as principal. A partner may be an individual surety for a fellow partner on a bond if (a) the transaction is in an individual capacity and unrelated to the partnership, (b) sufficient unencumbered nonpartnership property is available as security, and (c) the individual qualifies as an individual surety under the provisions of section 113.35 of this Part.

#### 113.37 CORPORATE SURETIES.

(a) *Lists of corporations and limits of their bonds.* Treasury Department Circular 570 contains a list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted. The Circular shall be furnished annually to all district directors by the Secretary of the Treasury. No corporation shall be accepted as surety on a bond unless named in the current Circular as amended by Federal Register notice and no bond shall be for a greater amount than the respective limit stated in the Circular, unless the excess is protected as prescribed in section 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11).

(b) *Name of corporation on the bond.* The name of a corporation executing a Customs bond, as a surety, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(c) *Name of agent or attorney on the bond.* The agent or attorney acting for a corporate surety shall have stamped, printed, or typed on each bond executed by him, below his signature, his full name as it appears on the bond.

(d) *Social security number of agent or attorney on the bond.* In the appropriate place on each bond executed by the agent or attorney acting for a corporate surety, the agent or attorney shall place his/her social security number, as it appears on the corporate surety power of attorney.

(e) *Signature and seal of the corporation on the bond.* A bond executed by a corporate surety shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in section 113.25 of this Part.

(f) *Two or more corporate sureties as sureties on the same obligation.* Two or more corporate sureties may be accepted as sureties on any obligation the amount of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. The amount for which each corporate surety may act as surety in all cases must be within the limitation prescribed by the Secretary, unless the excess is protected as prescribed in section 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11). Each corporate surety shall limit its liability to a definite specified amount, in terms, upon the face of the bond by attaching the following:

Corporate Sureties Agreement for Limitation of Liability  
\_\_\_\_\_(name of surety), \_\_\_\_\_(surety code),  
a surety company incorporated under the laws of the State of  
\_\_\_\_\_, authorized to conduct a surety business in the  
State of \_\_\_\_\_, and having its principal place of busi-  
ness at \_\_\_\_\_(address), and \_\_\_\_\_(name of  
surety), \_\_\_\_\_(surety code), a surety company incorpo-  
rated under the laws of the State of \_\_\_\_\_, authorized  
to conduct a surety business in the State of \_\_\_\_\_ and  
having its principal place of business at \_\_\_\_\_(address),  
as sureties, and \_\_\_\_\_(name of principal), as principal,  
are jointly and severally obligated to the United States in the  
amount of \_\_\_\_\_(\$ ) on a bond executed on  
\_\_\_\_\_ (date of execution) with each surety jointly and  
severally obligate with the principal in the amounts listed below  
and no more:

\_\_\_\_\_**(name of surety)**\_\_\_\_\_ (\$ )  
\_\_\_\_\_**(name of surety)**\_\_\_\_\_ (\$ )

By this agreement the principal and sureties bind themselves and agree that for the purpose of allowing a joint action against any or all them, and for that purpose only, this agreement and the bond under which they are obligated and which is incorporated by reference into this agreement, shall be treated as the joint and several as well as the several obligation of each of the parties.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_ 19 \_\_\_\_  
\_\_\_\_\_  
Principal

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— Surety

**Surety**

## Surrey District

District Director

(g) *Power of attorney for the agent or attorney of the surety.* Corporations may execute powers of attorney to act in their behalf in the following manner:

(1) *Execution and contents.* The corporate surety power of attorney shall be executed on Customs Form 5297, and shall contain the following information: (i) Corporate surety name and number, (ii) Name and address of agent or attorney, and social security number of agent or attorney, (iii) District(s) in which the agent or attorney is authorized to act, (iv) Date of execution of power of attorney, (v) Seal of the corporate surety, (vi) Signature of any two principal officers of corporation, and (vii) Dollar amount of authorization.

(2) *Filing.* The corporate surety power of attorney executed on Customs Form 5297 shall be filed at the district office unless the district director permits the submission of the corporate surety power of attorney to be made at any port within the district, in which case the corporate surety power of attorney must be submitted in duplicate. The power of attorney may provide authority for an agent or attorney in any number of districts. If authorized to be filed at a Customs port, the port director shall send the original of the power of attorney to the Customs district office. The Customs district offices shall periodically issue to all ports within their district computer printouts reflecting all corporate powers of attorney valid for use within the district. If the district director permits the submission of the corporate surety power of attorney to be made at any port within the district, a copy of the power of attorney shall be retained at the port where the power of attorney was filed until the first computer printout reflecting the power of attorney has been received from the district office. If a port has been delegated the authority to approve bonds, the copy of the power of attorney retained at the port can be used in connection with bond approval at the port for bonds executed by the person covered by the corporate surety power of attorney, until the computer printout is received. The original of the corporate surety power of attorney shall be retained at the district office with jurisdiction over the location where the corporate surety power of attorney was submitted.

(3) *Use at port where power of attorney not filed before receipt of computer printout.* If the grantee desires to use the power of attorney at a port covered by the power of attorney, other than the one where the power of attorney was filed, before the first computer printout reflecting this power of attorney is received, the Customs Form 5297, shall be filed in triplicate (original and two copies), rather than duplicate. The second copy shall be validated by Customs and returned to the grantee. The grantee, at the time of filing a bond at a port other than the port where the power of attorney was filed, shall provide this validated copy of the power of attorney as proof of the grant of authority. The validity of this copy of the power of attorney shall expire when the first computer printout reflecting this power of attorney is received.

(4) *Term and revocation.* Corporate surety powers of attorney shall continue in force and effect until revoked. Any surety desiring that a designated agent or attorney be divested of a power of attorney must execute a revocation on Customs Form 5297. The revocation shall take effect on the close of business on the date requested provided the corporate surety power of attorney is received 5 days before the date requested; otherwise the revocation will be effective at the close of business 5 days after the request is received at the district office.

(5) *Change on the power of attorney.* No change shall be made on the Customs Form 5297 after it has been approved by Customs except the following: (i) grantee name change, (ii) grantee address change, and (iii) the addition of district(s) to the corporate surety power of attorney on file. To make any other change to the power of attorney two separate Customs Forms 5297 shall be submitted, one revoking the previous power of attorney, and one containing a new grant of authority.

#### 113.38 DELINQUENT SURETIES.

(a) *Acceptance as surety when in default as principal on another Customs bond.* No person shall be accepted as surety on any Customs bond while in default as principal on any other Customs bond.

(b) *Acceptance as surety when in default as surety on another Customs bond.* A surety on a Customs bond which is in default may be accepted as surety on other Customs bonds only to the extent that the surety assets are unencumbered by the default.

(c)(1) *Nonacceptance of bond by district director.* A district director may refuse to accept a bond secured by an individual or corporate surety when the surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof. If the district director believes that a substantial question of law exists as to whether a breach of a bond obligation has occurred he should request internal advice under the provisions of section 177.11 from the Director, Carriers, Drawback and Bonds Division, Customs Headquarters.

(2) *Nonacceptance of bond upon instructions by Commissioner.* The Commissioner may, when he believes the circumstances warrant, issue instructions to the district directors that they shall not accept a bond secured by an individual or corporate surety when that surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof.

(3) *Notice of surety.* The appropriate Customs officer may take the above actions only after the surety has been provided reasonable notice with an opportunity to pay delinquent amounts, provide justification for the failure to pay, or demonstrate the existence of a significant legal issue justifying further delay in payment.

(4) *Review and final decision.* After a review of any submission made by the surety under paragraph (3) above, if the appropriate

Customs officer is still of the opinion bonds secured by the surety should not be accepted, written notice of the decision shall be provided to the surety in person or by certified mail, return receipt requested, at least 5 days before the date that Customs will no longer accept the bonds of the surety. When notice is sent to the surety of the decision not to accept the surety's bonds the appropriate Customs officer shall notify the Director, Carriers, Drawback and Bonds Division, Customs Headquarters who will request the Bureau of Government Financial Operations to revise Treasury Circular 570 to give notice of the refusal of the Customs Service to accept any new bonds underwritten by the surety. Notice shall also be given to the importing public by posting a copy of the decision in the customhouse. The decision shall also be published in the Customs Bulletin.

(5) *Duration of decision.* Any decision not to accept a given surety's bond shall remain in effect for a minimum of 5 days or until all outstanding delinquencies are resolved, whichever is later.

(6) *Actions consistent with requirements.* Any action not to accept the bonds of a surety under paragraphs (c)(1) and (2) shall be consistent with the requirements of this section.

#### 113.39 PROCEDURE TO REMOVE A SURETY FROM TREASURY DEPARTMENT CIRCULAR 570.

If a district director or regional commissioner is unsatisfied with a surety company because the company has neglected or refused to pay a valid demand made on the surety company's bond or otherwise has failed to honor an obligation on that bond, the district director or regional commissioner may take the following steps to have the surety company removed from Treasury Department Circular 570. The fact that collection proceedings have been, or are to be, started on a bond does not preclude use of this procedure if the district director or regional commissioner believes such action is warranted.

(a) *Report to Headquarters.* A district director or regional commissioner shall send the following evidence to Headquarters, Attn: Director, Carriers, Drawback and Bonds Division. If the report is from a district director it shall be submitted through the appropriate regional commissioner of Customs:

(1) A copy of the bond in issue; (2) A copy of the entry or other evidence which shows that there was a default on the bond; (3) A copy of all notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation; (4) A copy of all correspondence from the surety company; and (5) A written report of the facts known to the district director or regional commissioner showing the unsatisfactory performance by the surety company of the bond obligation(s).

(b) *Review by Headquarters.* The Director, Carriers, Drawback and Bonds Division, shall review submitted evidence and determine whether further action against the surety company is warranted. If

it is determined that further action is warranted, a report recommending appropriate action will be submitted to the Fiscal Assistant Secretary, Department of the Treasury, as required by section 223.18(a), Bureau of Government Financial Operations Regulations (31 CFR 223.18(a)). The district director and regional commissioner will be informed in writing of Headquarters action regarding their request for removal of the surety.

**113.40 ACCEPTANCE OF CASH DEPOSITS OR OBLIGATIONS OF THE UNITED STATES IN LIEU OF SURETIES ON BONDS.**

(a) *General provision.* In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury or the Commissioner of Customs is authorized to enforce, the district director is authorized to accept United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.

(b) *Authority to sell United States obligations on default.* At the time of deposit of any obligation of the United States, other than United States money, with the district director, the obligor shall deliver a duly executed power of attorney and agreement authorizing the district director, in case of any default in the performance of any of the conditions of the bond, to sell the obligation so deposited and to apply the proceeds of sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of default. The format of the power of attorney and agreement, when the obligor is a corporation, is set forth below, and shall be modified as appropriate when the obligor is either an individual or a partnership:

**POWER OF ATTORNEY AND AGREEMENT**

**(FOR CORPORATION)**

\_\_\_\_\_, (name of corporation) a corporation duly incorporated under the laws of the State of \_\_\_\_\_, and having its principal office in the City of \_\_\_\_\_, State of \_\_\_\_\_, as authorized by a resolution of the board of directors of the corporation, passed on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, a duly certified copy of which is attached, does constitute and appoint \_\_\_\_\_ (name and official title of bond-approving officer), and his successors in office, as attorney for said corporation, for and in the name of the corporation to collect or to sell, assign, and transfer the securities described as follows:

The securities having been deposited by it as security for the performance of the agreements undertaken in a bond with the United States, executed on the date of \_\_\_\_\_, 19\_\_\_\_\_, the terms and conditions of which are incorporated by reference into this power of attorney and agreement and made a part hereof. The undersigned agrees that in case of any default in the performance of any of the agreements the attorney shall have full power to collect the securities or any part thereof, or to sell, assign, and transfer the securities or any part thereof at public or private sale, without notice, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived and to apply the proceeds of the sale or collection in whole or in part to the satisfaction of any obligation arising by reason of default. The undersigned further agrees that the authority granted by this agreement is irrevocable. The corporation for itself, its successors and assigns, ratifies and confirms whatever the attorney shall do by virtue of this agreement.

Witnessed, signed, and sealed, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
[Corporate seal.]

By \_\_\_\_\_  
Before me, the undersigned, a notary public within and for the County of \_\_\_\_\_, in the State of \_\_\_\_\_ (or the District of Columbia), personally appeared \_\_\_\_\_ (name and title of officer) and for and in behalf of said \_\_\_\_\_, a corporation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
[Notarial seal.]

*Notary Public.*

NOTE.—Securities must be described by title, date of maturity, rate of interest, denomination, serial number, and whether coupon or registered. Failure to give a complete description will warrant rejection of this power of attorney.

(c) *Application of United States money on default.* If cash is deposited in lieu of sureties on the bond, the district director is authorized to apply the cash, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of a default under the bond.

#### SUBPART E—PRODUCTION OF DOCUMENTS

##### 113.41 ENTRY MADE PRIOR TO PRODUCTION OF DOCUMENTS.

When entry is made prior to the production of a required document, a card memorandum on Customs Form 5101 shall be prepared by the importer and presented with the entry, together with a bond to secure production of the document.

**113.42 TIME PERIOD FOR PRODUCTION OF DOCUMENTS.**

Except when another period is fixed by law or regulations, any document for the production of which a bond is given shall be delivered to the district director within 6 months from the date of the transaction in connection with which the bond was given, or within any extension of such time which may be granted pursuant to section 113.43(a) of this Part. If the period ends on a Saturday, Sunday, or Federal holiday, delivery on the next business day shall be accepted as timely.

**113.43 EXTENSION OF TIME PERIOD.**

(a) *Application received within time period.* If a document (other than an invoice or document which must be produced within 2 months, as provided in section 141.61(e) of this chapter) referred to in section 113.42 of this Part is not produced within 6 months from the date of the transaction in connection with which the bond was given, the district director, in his discretion, upon written application of the importer, may extend the period for one further period of 2 months.

(b) *Late application.* No application for the extension of the period of any bond given to assure the production of a missing document shall be allowed by the district director if the application is received later than 2 months after the expiration of the period of the bond, and any extension shall not be allowed by the district director for a period of more than 2 months from the date of expiration of the period.

(c) *Acceptance of a free-entry or reduced-duty document prior to liquidation.* When a bond is given for the production of any free-entry or reduced-duty document and a satisfactory document is produced prior to liquidation of the entry or within the period during which a valid reliquidation may be completed, provided the failure to file was not due to willful negligence or fraudulent intent, it shall be accepted as satisfying the requirement that it be filed in connection with the entry, and the bond charge for its production shall be cancelled.

**113.44 ASSENT OF SURETIES TO AN EXTENSION OF A BOND.**

(a) *Extension prescribed by law or regulations.* The assent of the sureties to any extension of the period prescribed in a bond is not necessary when the extension is authorized by law or regulations.

(b) *Other extension.* The assent of the sureties shall be obtained before any extension of the period prescribed in a bond other than an extension authorized by law or regulation, is allowed.

**113.45 CHARGE FOR PRODUCTION OF A MISSING DOCUMENT MADE AGAINST A CONTINUOUS BOND.**

When a continuous bond secures the production of a missing document and the bond is breached by the principals failure to timely produce that document, the claim for liquidated damages shall be

in an amount equal to the amount of the single entry bond that would have been taken had the transaction been covered by a single entry bond.

**113.46 CANCELLATION OF BOND CHARGES RESULTING FROM FAILURE TO PRODUCE DOCUMENTS.**

Section 172.22 of this chapter sets forth provisions relating to cancellation of bond charges resulting from failure to produce documents.

**SUBPART F—ASSESSMENT OF DAMAGES AND CANCELLATION OF BOND**

**113.51 CANCELLATION OF BOND OR CHARGE AGAINST THE BOND.**

The Commissioner of Customs may authorize the cancellation of any bond provided for in this part or any charge that may have been made against the bond, in the event of a breach of any condition of the bond, upon payment of a lesser amount or penalty or upon such other terms and conditions as may be deemed sufficient.

**113.52 FAILURE TO SATISFY THE BOND.**

If any Customs bond, except one given only for the production of free-entry or reduced-duty documents (see sections 113.43(c) and 172.22(c) of this chapter), is unsatisfied upon the expiration of 90 days after liability has accrued under the bond, the matter shall be reported to the Department of Justice for prosecution unless measures have been taken to file an application for relief or protest in accordance with the provisions of this chapter or to satisfactorily settle the matter.

**113.53 WAIVER OF CUSTOMS REQUIREMENT SUPPORTED BY A BOND.**

(a) *Waiver by the Commissioner of Customs.* When a Customs requirement supported by a bond is waived by the Commissioner of Customs, the waiver may be:

(1) Unconditional, in which case the importer is relieved from the payment of liquidated damages; (2) Conditioned upon prior settlement of the bond obligation by payment of liquidated damages; or (3) Conditioned upon such other terms and conditions as the Commissioner may deem sufficient.

(b) *Waiver by the district director.* When a Customs requirement supported by a bond is waived by the district director pursuant to the authority conferred by these regulations, the waiver shall be unconditional.

**113.54 CANCELLATION OF ERRONEOUS CHARGES.**

(a) *Bonds.* Section 172.31 of this chapter sets forth provisions relating to the cancellation of charges against the bond when it is determined that the act or omission forming the basis for the claim for liquidated damages did not in fact occur.

(b) *Carnets.* Section 114.34 of this chapter sets forth provisions relating to the cancellation of erroneous charges involving carnets.

**113.55 CANCELLATION OF EXPORT BONDS.**

(a) *Manner of cancellation.* A bond to assure exportation as defined in section 101.1 of this chapter may be cancelled:

(1) *Upon exportation.* Upon the listing of the merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel or of the departure of the vehicle, and the production of a foreign landing certificate if the certificate is required by the district director.

(2) *Upon payment of liquidated damages.* Upon the payment of liquidated damages.

(b) *Cancellation of bond charges of an international carrier.* The conditions of the bond of an international carrier may be considered as having been complied with upon the production of the applicable documents listed in paragraph (a)(1) of this section.

(c) *Foreign landing certificate.* A foreign landing certificate, when required, shall be produced within 6 months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of lading. Landing certificates are required in the following cases:

(1) *Mandatory.* A landing certificate shall be required in every case to establish the exportation of narcotic drugs or any equipment, stores (except such articles as are placed on board vessels or aircraft under the provisions of section 309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317)), or machinery for vessels.

(2) *Optional with the district director.* A landing certificate may be required by the district director for merchandise exported from the United States, or residue cargo, when a certificate is deemed necessary for the protection of the revenue.

(3) *Waiver.* Except as provided in section 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Commissioner of Customs through the district director, accompanied by such proof of exportation and landing abroad as may be available.

(d) *Articles less than \$10.* In the case of articles for which the ordinary Customs duty estimated at the time of entry did not exceed \$10 and which are exported without Customs supervision, but within the period during which the articles are authorized to remain in the Customs territory of the United States under bond (including any lawful extension), the bond may be cancelled upon production of evidence of exportation satisfactory to the district director.

**SUBPART G—CUSTOMS BOND CONDITIONS****113.61 GENERAL.**

Each section in this subpart identifies specific coverage for a particular Customs activity. When an individual or organization files a bond with Customs the activity in which they plan on engaging will be identified on the bond. The bond conditions listed in this subpart which correspond to that activity will be incorporated by reference into the bond.

**113.62 BASIC IMPORTATION AND ENTRY BOND CONDITIONS.**

A bond for basic importation and entry shall contain the conditions listed in this section and may be either a single entry or a continuous bond, except that a bond taken in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 shall be a single entry bond.

**BASIC IMPORTATION AND ENTRY BOND CONDITIONS**

(a) *Agreement to Pay Duties, Taxes, and Charges.* (1) If merchandise is imported and released from Customs custody or withdrawn from a Customs bonded warehouse into the commerce of, or for consumption in, the United States, the obligors (principal and surety) agree to:

- (i) Deposit, within the time prescribed by law or regulation, any duties, taxes, and charges imposed, or estimated to be due, at the time of release or withdrawal; and
- (ii) Pay, as demanded by Customs, all additional duties, taxes, and charges subsequently found due, legally fixed, and imposed on any entry secured by this bond.

(2) If the principal enters any merchandise into a Customs bonded warehouse, the obligors agree:

- (i) To pay any duties, taxes, and charges found to be due on any of that merchandise which remains in the warehouse at the expiration of the warehousing time limit set by law; and
- (ii) That the obligation to pay duties, taxes, and charges on the merchandise applies whether it is properly withdrawn by the principal, or by the principal's transferee, or is unlawfully removed by the principal or any other person, without regard to whether the merchandise is manipulated, unless payment was made or secured to be made by some other person.

(3) Under this agreement, the obligation to pay any and all duties, taxes, and charges due on any entry ceases on the date the principal timely files with the district director a bond of the owner in which the owner agrees to pay all duties, taxes, and charges found due on that entry; provided a declaration of the owner has also been properly filed.

(b) *Agreement to Make or Complete Entry.* If all or part of imported merchandise is released before entry under the provisions of the

special delivery permit procedures under 19 U.S.C. 448(b) or released before completion of the entry under 19 U.S.C. 484(a), the principal agrees to file within the time and in the manner prescribed by law and regulation, documentation to enable Customs to:

- (1) Determine whether the merchandise may be released from Customs custody;
- (2) Properly assess duties on the merchandise;
- (3) Collect accurate statistics with respect to the merchandise; and
- (4) Determine whether applicable requirements of law and regulation are met.

(c) *Agreement to Produce Documents and Evidence.* If merchandise is released conditionally to the principal before all required documents or other evidence is produced, the principal agrees to furnish Customs with any document or evidence as required by law or regulation, and within the time specified by law or regulations.

(d) *Agreement to Redeliver Merchandise.* If merchandise is released conditionally from Customs custody to the principal before all required evidence is produced, before its quantity and value are determined, or before its right of admission into the United States is determined, the principal agrees to redeliver timely, on demand by Customs, the merchandise released if it:

- (1) Fails to comply with the laws or regulations governing admission into the United States;
- (2) Must be examined, inspected, or appraised as required by 19 U.S.C. 499; or
- (3) Must be marked with the country of origin as required by law or regulation.

It is understood that any demand for redelivery will be made no later than 21 days after the date that the merchandise was released or 21 days after the end of the conditional release period (whichever is later).

(e) *Agreement to Rectify Any Non-Compliance with Provisions of Admission.* If merchandise is released conditionally to the principal before its right of admission into the United States is determined, the principal, after notification, agrees to mark, clean, fumigate, destroy, export or do any other thing to the merchandise in order to comply with the law and regulations governing its admission into the United States within the time period set in the notification.

(f) *Agreement for Examination of Merchandise.* If the principal obtains permission to have any merchandise examined elsewhere than at a wharf or other place in charge of a Customs officer, the principal agrees to:

- (1) Hold the merchandise at the place of examination until the merchandise is properly released;
- (2) Transfer the merchandise to another place on receipt of instructions from Customs made before release; and

(3) Keep any Customs seal or cording on the merchandise intact until the merchandise is examined by Customs.

(g) *Reimbursement and Exoneration of the United States.* The obligors agree to:

(1) Pay the compensation and expenses of any Customs officer, as required by law or regulation; and

(2) Exonerate the United States and its officers from any risk, loss, or expense arising out of principal's importation, entry, or withdrawal of merchandise.

(h) *Agreement on Duty-Free Entries or Withdrawals.* If the principal enters or withdraws any merchandise, without payment of duty and tax, or at a reduced rate of duty and tax, as permitted under the law, the principal agrees:

(1) To use and handle the merchandise in the manner and for the purpose entitling it to duty-free treatment;

(2) If a fishing vessel, to present the original approved application to Customs within 24 hours on each arrival of the vessel in the Customs territory of the United States from a fishing voyage;

(3) To furnish timely proof to Customs that any merchandise entered or withdrawn under any law permitting duty-free treatment was used in accordance with that law; and

(4) To keep safely all withdrawn beverages remaining on board while the vessel is in port, as may be required by Customs.

(i) *Consequence of Default.* (1) If the principal defaults on agreements in this condition other than conditions (a) or (g), the obligors agree to pay liquidated damages equal to the value of the merchandise involved in the default, except that in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 which has been released before such order becomes final, the obligors agree to pay liquidated damages in the amount specified in the order for failure to redeliver such merchandise.

(2) It is understood and agreed that the amount to be collected under these conditions shall be based upon the quantity and value of the merchandise as determined by Customs.

### 113.63 BASIC CUSTODIAL BOND CONDITIONS.

A basic custodial bond shall contain the conditions listed in this section and shall be a continuous bond.

#### BASIC CUSTODIAL BOND CONDITIONS

(a) *Receipt of Merchandise.* The principal agrees:

(1) To operate as a custodian of any bonded merchandise received and to comply with all regulations regarding the receipt, carriage, safekeeping, and disposition of such merchandise;

(2) To accept only merchandise authorized under Customs Regulations;

(3) To maintain all records required by regulations relating to merchandise received into bond, and to produce the records upon demand by an authorized Customs officer;

(4) If authorized to operate a container station under the Customs Regulations, to report promptly to Customs each arrival of a container and its merchandise by delivery of the manifest and the application for transfer, or by other approved notice.

(b) *Carriage and Safekeeping of Merchandise.* The principal agrees:

(1) If a bonded carrier, to use only authorized means of conveyance;

(2) To keep safe any merchandise placed in its custody including, when approved by Customs, repacking and transferring such merchandise when necessary for its safety or preservation; and

(3) To comply with Customs Regulations relating to the handling of bonded merchandise.

(c) *Disposition of Merchandise.* The principal agrees:

(1) If a bonded carrier, to report promptly the arrival of merchandise at the destination port by delivering to Customs the manifest or other approved notice;

(2) If a cartage or lighterage business, to deliver promptly and safely to Customs any merchandise placed in the principal's custody together with any related cartage and lighterage ticket and manifest;

(3) To dispose of merchandise in a manner authorized by Customs Regulations; and

(4) To file timely with Customs any report required by Customs Regulations.

(d) *Agreement to Redeliver Merchandise to Customs.* If the principal is designated a bonded carrier, or licensed to operate a cartage or lighterage business, the principal agrees to redeliver timely, on demand by Customs, any merchandise delivered to unauthorized locations or to the consignee without the permission of Customs. It is understood that the demand for redelivery shall be made no later than 21 days after Customs discovers the improper delivery.

(e) *Compliance with Licensing and Operating Requirements.* The principal agrees to comply with all Customs laws and regulations relating to principal's facilities, conveyances, and employees.

(f) *Reimbursement and Exoneration of the United States.* The principal and surety agree to:

(1) Pay the compensation and expenses of any Customs officer as required by law or regulation;

(2) Pay the cost of any locks, seals, and other fastenings required by Customs Regulations for securing merchandise placed in the principal's custody;

(3) Pay for any expense connected with the suspension or termination of the bonded status of the premises; and

(4) Exonerate the United States and its officers from any risk, loss, or expense arising out of the principal's custodial operation.

(g) *Consequence of Default.*

(1) If the principal defaults on conditions (a) through (e) in this agreement, the obligors (principal and surety) agree to pay liquidated damages equal to three times the value of the merchandise involved in the default.

(2) It is understood and agreed that the amount to be collected under conditions (a) through (e) of this agreement shall be based upon the quantity and value of the merchandise as determined by Customs.

**113.64 INTERNATIONAL CARRIER BOND CONDITIONS.**

A bond for international carriers shall contain the conditions listed in this section and may be either a single entry or continuous bond.

**INTERNATIONAL CARRIER BOND CONDITIONS**

(a) *Agreement to Pay Penalties, Duties, Taxes, and Other Charges.* If any vessel, vehicle, or aircraft incurs a penalty, duty, tax, or other charge provided by law or regulation, the obligors agree to pay the sum upon demand by Customs as a condition of clearance of such vessel, vehicle, or aircraft.

(b) *Agreement on Unlading, Safekeeping, and Disposition of Merchandise, Supplies, Crew Purchases, Etc.* The principal agrees to comply with all laws and Customs Regulations applicable to unlading, safekeeping, and disposition of merchandise, supplies, crew purchases, and other articles on board the vehicle, vessel, or aircraft; and to redeliver the foregoing to Customs upon demand as provided by Customs Regulations. If principal defaults, obligors agree to pay liquidated damages equal to the value of the merchandise involved in the default or in such amount as may be authorized by law or regulation.

(c) *Agreement to Deliver Export Documents.* If the principal's vessel or vehicle is granted clearance without filing a complete outward manifest and all required export documents, the principal agrees to file timely the required manifest and all required export documents. If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages of \$50 per day for the first 3 days, and \$100 per day thereafter, up to \$1,000 in total.

(d) *Exoneration of the United States.* The obligors agree to exonerate the United States and its officers from any risk, loss, or expense arising out of entry or clearance of the carrier, or handling of the articles on board.

**113.65 REPAYMENT OF ERRONEOUS DRAWBACK PAYMENT BOND CONDITIONS.**

A bond for repayment of erroneous drawback shall contain the conditions listed in this section and shall be a continuous bond.

**REPAYMENT OF ERRONEOUS DRAWBACK PAYMENT BOND CONDITIONS**

(a) *Agreement Under Exporter's Summary Procedure.* If the principal is permitted to file drawback claims under the exporter's summary procedure and the principal's drawback claims are paid before a final determination that the principal:

- (1) Is entitled to the drawback claimed,
- (2) Correctly described the exported articles in the claim, and
- (3) Correctly stated the facts of exportation in the claim;

the principal agrees to refund, on demand, any money claimed by Customs to have been erroneously paid as a result of an incorrect statement on the drawback claim.

(b) *Agreement Under Accelerated Payment of Drawback.* If the principal receives an accelerated payment of drawback based on the principal's calculation of the drawback claim, the principal agrees to refund on demand the full amount of any overpayment, as determined on liquidation of the drawback claim.

**113.66 CONTROL OF CONTAINERS AND INSTRUMENTS OF INTERNATIONAL TRAFFIC BOND CONDITIONS.**

A bond for control of containers and instruments of international traffic shall contain the conditions listed in this section and shall be a continuous bond.

**CONTROL OF CONTAINERS AND INSTRUMENTS OF INTERNATIONAL TRAFFIC BOND CONDITIONS**

(a) *Agreement to Enter Any Diverted Instrument of International Traffic.* If the principal brings in and takes out of the Customs territory of the United States an instrument of international traffic without entry and without payment of duty, as provided by the Customs Regulations and section 322(a), Tariff Act of 1930, as amended, the principal agrees to:

- (1) Report promptly to Customs when the instrument is diverted to point-to-point local traffic in the Customs territory of the United States or when the instrument is otherwise withdrawn in the Customs territory of the United States from its use as an instrument of international traffic;
- (2) Promptly enter the instrument; and
- (3) Pay any duty due on the instrument at the rate in effect and in its condition on the date of diversion or withdrawal.

(b) *Agreement to Comply With the Provisions of Items 800.00 or 808.00, Tariff Schedules of the United States.* If the principal gets free release of any serially numbered shipping container classifiable under item 800.00 or 808.00, TSUS, the principal agrees:

- (1) Not to advance the value or improve its condition abroad or claim (or make a previous claim) drawback on, any container released under item 800.00, TSUS;

(2) To pay the initial duty due and otherwise comply with every condition in item 808.00, TSUS, on any container released under that item;

(3) To mark that container in the manner required by Customs;

(4) To keep records which show the current status of that container in service and the disposition of that container if taken out of service; and

(5) To remove or strike out the markings on that container when it is taken out of service or when the principal transfers ownership of it.

(c) *Consequence of Default.*

(1) If the principal defaults on agreements in these conditions, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default.

(2) It is understood and agreed that the amount to be collected under these conditions shall be based upon the quantity and value of the merchandise as determined by Customs.

**113.67 LICENSED PUBLIC GAUGER BOND CONDITIONS.**

A bond of a licensed public gauger shall contain the conditions listed in this section and shall be a continuous bond.

**LICENSED PUBLIC GAUGER BOND CONDITIONS**

(a) If the principal is a licensed public gauger whose reports of gauging are accepted for Customs purposes, the principal agrees to:

(1) Gauge according to the standards and procedures set by the Customs Regulations; and

(2) Submit properly any required report, proof, or abstract to Customs.

(b) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default.

**113.68 WOOL AND FUR PRODUCTS LABELING ACTS BONDS CONDITIONS.**

A bond to comply with wool and fur products labeling acts shall contain the conditions listed in this section and shall be a single entry bond.

**WOOL AND FUR PRODUCTS LABELING ACTS BOND CONDITIONS**

(a) If the principal obtains release from Customs custody of any wool or fur product (hereafter "merchandise") that is subject to the provisions of the Wool Products Labeling Act of 1939 or the Fur Products Labeling Act, the principal guarantees that the merchandise complies with every provision of both Acts, as applicable.

(b) If any of the released merchandise does not comply with each applicable provision of the Wool Products Labeling Act of 1939 or the Fur Products Labeling Act, the obligors (principal and surety)

agree to pay liquidated damages equal to two times the value of the merchandise, and any duty on the merchandise.

**113.69 PRODUCTION OF BILL OF LADING BOND CONDITIONS.**

A bond to produce a bill of lading shall contain the conditions listed in this section and shall be a single entry bond.

**PRODUCTION OF BILL OF LADING BOND CONDITIONS**

If the principal obtains release of any merchandise before filing a valid bill of lading on that merchandise with Customs, the obligors (principal and surety) agree to:

- (a) Produce timely a valid bill of lading for the merchandise; and
- (b) Relieve the United States and its employees from all liability, to indemnify the United States and its employees against loss, and defend any action brought on a claim for loss based on the release without production of a valid bill of lading.

**113.70 BOND CONDITION TO INDEMNIFY UNITED STATES FOR DETENTION OF COPYRIGHTED MATERIAL.**

A bond to indemnify the United States for detention of copyrighted material shall contain the conditions listed in this section and shall be a single entry bond.

**BOND CONDITION TO INDEMNIFY U.S. FOR DETENTION OF  
COPYRIGHTED MATERIAL**

If Customs detains any articles alleged by the principal to be a piratical copy of material covered by the principal's copyright pending a final determination whether the articles are prohibited entry under the copyright laws, the obligors (principal and surety) agree to hold the United States and its employees, and the importer or owner of those articles, jointly and severally, harmless from any material depreciation of those articles and any loss or damage caused by the detention in the event it is finally determined that the articles are not a piratical copy of the material.

**113.71 BOND CONDITION TO OBSERVE NEUTRALITY.**

A bond to observe neutrality shall contain the conditions listed in this section and shall be a single entry bond.

**BOND CONDITION TO OBSERVE NEUTRALITY**

- (a) If clearance is granted to the principal's vessel, which is armed or is built for a war-like purpose, with a cargo of arms and munitions, so that it is likely to be used to commit hostilities against people or countries with whom the Government of the United States is at peace, the principal guarantees that the vessel will not be used to commit hostilities against any country, state, colony, or people with whom the Government is at peace.

(b) If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to twice the value of the vessel and cargo.

**113.72 BOND CONDITION TO PAY COURT COSTS (CONDEMNED GOODS).**

A bond to pay court costs (condemned goods) shall contain the condition listed in this section and shall be a single entry bond.

**BOND CONDITION TO PAY COURT COSTS (CONDEMNED GOODS)**

If any seized goods belonging to principal are condemned the obligors (principal and surety) agree to pay all costs of the condemnation proceedings.

**113.73 FOREIGN TRADE ZONE OPERATOR BOND CONDITIONS.**

A bond of a foreign trade zone operator shall contain the conditions listed in this section and shall be a continuous bond.

**FOREIGN TRADE ZONE OPERATOR BOND CONDITIONS**

If the principal is authorized to operate a foreign trade zone or subzone:

(a) *Receipt, Handling, and Disposition of Merchandise.* The principal agrees to comply with:

(1) The law and Customs Regulations relating to the admission into, handling in, and removal of merchandise in the foreign trade zone or subzone; and

(2) The terms and conditions of the memorandum of understanding with Customs concerning the maintenance of records covering merchandise in the foreign trade zone or subzone.

If the principal defaults, the obligors (principal and surety) agree to pay liquidated damages equal to the value of the merchandise involved in the default.

(b) *Agreement to Pay Duties, Taxes, and Charges.* The obligors agree to pay any duties, taxes, and charges found to be due on any merchandise, properly admitted to the foreign trade zone or subzone, which is found to be missing from the zone or cannot be accounted for in the zone, it being expressly understood and agreed that the amount of said duties, taxes, and charges shall be determined solely by Customs.

(c) *Reimbursement and Exoneration of the United States.* The obligors agree to:

(1) Exonerate the United States and its officers from any risk, loss, or expense arising from the principal's operation of the foreign trade zone or subzone;

(2) Pay the compensation and expenses of any Customs officer, as required by law or regulation.

**PART 114—CARNETS**

It is proposed to amend section 114.22(d) by removing the words "carrier's bond" and inserting in their place the words "Customs bond".

**PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO**

It is proposed to amend section 123.8(c) by removing (a) the words "Customs Form 7567, 7569, or 7597 shall have been received" in the first sentence of the paragraph and inserting in their place the words "Customs Form 301, containing the bond conditions set forth in section 113.64 of this chapter, is on file or is filed with the request" and (b) the second sentence of the paragraph.

**PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE**

It is proposed to amend section 125.42 by removing the words "a cartman's bond or lighter's bond" in the first sentence of the section and inserting in their place the words "the bond of the cartman or lighter on Customs Form 301, containing the bond conditions set forth in section 113.63 of this chapter,".

**PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE**

It is proposed to amend section 127.37(a) by removing the words "warehouse entry bond" and inserting in their place the words "bond for the importation and entry of merchandise on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

**PART 132—QUOTAS**

It is proposed to amend section 132.14(a)(4) by removing the words "entry bond" in subparagraphs (i)(C) and (ii)(B) and in each instance inserting in their place the words "bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in section 113.62 of this chapter".

**PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS**

1. It is proposed to amend section 113.24 by removing the words "entry bond" in the first sentence of the section and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter,".

2. It is proposed to amend section 133.43(b)(2) by removing the words "in the form and" and inserting in their place the words "on Customs Form 301, containing the bond condition set forth in section 113.70 of this chapter in an".

3. It is proposed to amend section 133.46 by removing the words "entry bond" in the first sentence of the section and inserting in

their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

#### PART 134—COUNTRY OF ORIGIN MARKING

It is proposed to amend section 134.53(a)(2) by removing the words "entry bond" in the last sentence of the paragraph and inserting in their place the words "bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in section 113.62 of this chapter".

#### PART 141—ENTRY OF MERCHANDISE

1. It is proposed to amend section 141.0a by revising paragraph (h) and adding a paragraph (i) to read as follows:

##### 141.0a DEFINITIONS.

(h) *Entered temporarily under bond*—"Entered temporarily under bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

(i) *Released conditionally*—"Released conditionally" means any release from Customs custody before liquidation.

2. It is proposed to amend section 141.15(b) by revising it to read as follows:

##### 141.15 BOND FOR PRODUCTION OF BILL OF LADING OR AIR WAYBILL.

(b) *Form*. The bond shall be on Customs Form 301 and contain the bond conditions set forth in section 113.69 of this chapter.

3. It is proposed to amend section 141.18(b) by inserting after the word "bond" the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

4. It is proposed to amend section 141.19(b)(2)(ii) by removing the words "entry bond" and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

5. It is proposed to amend section 141.20 by removing (a) the word "term" in paragraph (a)(2) and inserting in its place the word "continuous", (b) the words "on Customs Form 7601" in paragraph (a)(2) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter.", and (c) the words "on Customs Form 7551 or 7553, with a resident corporate surety thereon, in lieu of a bond on Customs Form 7601" in paragraph (c) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, with a resident corporate surety".

6. It is proposed to amend section 141.52(g) by (a) removing the word "bonds" and inserting in its place the words "a bond", and (b) inserting the word "under" before the word "bond".

7. It is proposed to amend section 141.66 by removing the words "an appropriate bond" and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 or section 113.69 of this chapter, as appropriate."

8. It is proposed to amend section 141.82(c) by removing the word "term" in the first sentence of the section and inserting in its place the word "continuous".

9. It is proposed to amend section 141.83(d)(10) by revising it to read as follows:

141.83 TYPE OF INVOICE REQUIRED.

\* \* \* \* \*

(d) *Special Customs or commercial invoice not required.* \* \* \*

(10) Merchandise entered temporarily into the Customs territory of the United States under bond or for permanent exhibition under bond.

10. It is proposed to amend section 141.84(e) by inserting the words "the charges against" after the word "cancel".

11. It is proposed to amend section 141.91(d) by removing the words "gives an appropriate bond" in the first sentence of the paragraph and inserting in their place the words "files a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, in an amount equal to one and one-half the invoice value of the merchandise,"

12. It is proposed to amend section 141.92(c) by removing the words "entry bond" and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

13. It proposed to amend section 141.101(e) by removing the words "under a temporary importation bond, permanent exhibition bond, trade fair bond, or other similar bond" and inserting in their place the words "temporarily imported under bond, entered for permanent exhibition under bond, entered for a trade fair under bond or entered under bond for similar reasons".

14. It is proposed to amend section 141.102(d) by removing the words "any bond provided for in Part 113 of this chapter" in the first sentence of the paragraph and inserting in their place the words "the bond".

15. It is proposed to amend section 141.112(g) by removing the words "exact a bond of indemnity to save him harmless from any personal" and inserting in their place the words "require a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter, to hold him harmless from any".

**PART 142—ENTRY PROCESS**

1. It is proposed to amend section 142.1 by removing the words "entered under a temporary importation bond" and inserting in their place the words "entered temporarily under bond".

2. It is proposed to amend section 142.4 by removing (a) the words "unless one of the following types of bonds" from paragraph (a) and inserting in their place the words "unless a single entry or continuous bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter", (b) the first sentence of subparagraph (a)(1), the subparagraph heading and the subparagraph designation, (c) subparagraph (a)(2) and (a)(3), and (d) the words "one of the bonds enumerated in paragraph (a) of this section" in the first sentence of subparagraph (b)(2) and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

3. It is proposed to amend section 142.5 by removing the section and marking it "Reserved".

4. It is proposed to amend section 142.11(a) by removing the words "under a temporary importation bond" in the second sentence of the paragraph and inserting in their place the words "temporarily imported under bond".

5. It is proposed to amend section 142.15 by removing the word "term" in the second sentence of the section and inserting in its place the word "continuous".

6. It is proposed to amend section 142.19 by removing (a) the words "an appropriate" in the fist sentence of the section and inserting in their place the word "a", (b) the words "an entry bond is filed on Customs Forms 7551, 7595, in an amount determined in accordance waith Part 113 of this chapter" in the first sentence of paragraph (a) and inserting in their place the words "a bond is filed on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" and (c) the word "entry" in the second sentence of paragraph (a).

7. It is proposed to amend section 142.21 by (a) removing the words (i) "one of the types of Customs bonds described in section 142.4" in the first sentence of paragraph (a), (ii) "one of the type of bonds enumerated in section 142.4" in the first sentence of paragraph (e)(1), (iii) "one of the types of Customs bonds provided for in section 142.4" in paragraph (f)(2) and (iv) "an appropriate" in paragraph (g), and in each instance inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter", and (b) revising paragraph (b)(2) to read as follows:

**142.21 MERCHANTISE ELIGIBLE FOR SPECIAL PERMIT FOR IMMEDIATE DELIVERY.**

\* \* \* \* \*

(b) *Fresh fruits and vegetables.*

(1) \* \* \*

(2) The application shall be accompanied by a continuous bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter.

\* \* \* \* \*

8. It is proposed to amend section 142.22(b)(1) by removing the words "under a temporary importation bond" and inserting in their place the words "temporarily under bond".

9. It is proposed to amend section 142.27 by removing the word "term" in the second sentence of the section and inserting in its place the word "continuous".

#### PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. It is proposed to amend section 144.2 by removing (a) the words "entry bond" in the first sentence of the section and inserting in their place the words "bond filed on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" and (b) the words "warehouse entry" in the second sentence of the section.

2. It is proposed to amend section 144.13 by revising it to read as follows:

##### 144.13 BOND REQUIREMENTS.

A bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter shall be filed in the amount required by the district director to support the entry documentation.

3. It is proposed to amend section 144.14 by removing the words "appropriate bond" in the first sentence of the section and inserting in their place the words "bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

4. It is proposed to amend section 144.15(d) by removing the paragraph.

5. It is proposed to amend section 144.21 by (a) removing the words "an appropriate bond" in the first sentence of the section and inserting in their place the words "a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter" and (b) placing a period after the word "liability" in the second sentence of the section and removing the remainder of the sentence.

6. It is proposed to amend section 144.24 by revising it to read as follows:

##### 144.24 TRANSFEREE'S BOND.

The transferee's bond shall be on Customs Form 301 and contain the bond conditions set forth in section 113.62 of this chapter.

7. It is proposed to amend section 144.41 by removing (a) the words "on Customs Form 7555 or other appropriate form" in the

first sentence of paragraph (d) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter", (b) the words "entry" and "warehouse entry" in the second sentence of paragraph (d), and (c) the words "warehouse entry bond period" in paragraph (g) and inserting in their place the words "5 year period during which the merchandise may remain in warehouse under bond".

#### PART 145—MAIL IMPORTATIONS

It is proposed to amend section 145.72(d) by removing the words "under a temporary importation bond" and inserting in their place the words "temporarily under bond".

#### PART 146—FOREIGN-TRADE ZONES

1. It is proposed to amend section 146.42 by removing the words "on Customs Form 7557, 7559, or 7595" in paragraph (b)(2)(ii) and paragraph (c)(2) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

2. It is proposed to amend section 146.45 by removing the words "on Customs Form 7551, 7553, or other appropriate form" in paragraph (b)(3) and the second sentence of paragraph (c)(5) and in each instance inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".

#### PART 147—TRADE FAIRS

1. It is proposed to amend section 147.2(a)(2) by removing the words "Covered by a Customs exhibition bond provided for in" and inserting in their place the words "Imported for exhibition under".

2. It is proposed to amend section 147.3 by revising it to read as follows:

##### 147.3 BOND REQUIRED.

The fair operator shall file a bond on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter in such amount as the district director requires.

#### PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

It is proposed to amend section 148.52(c) by removing the words "on Customs Form 7551 or 7553" in the second sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter,".

**PART 151—EXAMINATION, SAMPLING, AND TESTING OF  
MERCHANDISE**

1. It is proposed to amend section 151.7(d) by removing everything in the paragraph after the words "execute a bond" and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.62 of this chapter".
2. It is proposed to amend section 151.11 by removing the word "appropriate" in the second sentence of the section.
3. It is proposed to amend section 151.43 by removing (a) the words "in the amount of \$10,000" in the first sentence of paragraph (b)(6) and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.67 of this chapter," (b) the second sentence of paragraph (b)(6), and (c) the words "public gauger bond described in section 113.13(b) of this chapter" in the second sentence of paragraph (d) and inserting in their place the word "bond".

**PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE**

1. It is proposed to amend section 162.45(a)(3) by inserting the words "on Customs Form 301, containing the bond conditions set forth in section 113.72 of this chapter," after the word "bond".
2. It is proposed to amend section 162.47(b) by removing (a) the words "on Customs Form 4615" in the first sentence of the paragraph and inserting in their place the words "on Customs Form 301, containing the bond conditions set forth in section 113.72 of this chapter", and (b) the second sentence of the paragraph and the format for the list or schedule.

**PART 172—LIQUIDATED DAMAGES**

It is proposed to amend section 172.22(c) by removing the word "term" and inserting in its place the word "continuous".

ALFRED R. DEANGELUS,  
*Acting Commissioner of Customs.*

Approved:

ROBERT E. POWIS,

*Acting Assistant Secretary of the Treasury.*

[Published in the Federal Register, March 15, 1983 (48 FR 11032)]

## CUSTOMS

DEPARTMENT OF THE TREASURY  
UNITED STATES CUSTOMS SERVICE

## CUSTOMS BOND

19 CFR 113

## APPENDIX A

CUSTOMS	BOND NUMBER (Assigned by Customs)
USE ONLY	FILE REFERENCE

In order to secure payment of any duty, tax or charge and compliance with law or regulation as a result of activity covered by any condition referenced below, we, the below named principal(s) and surety(ies), bind ourselves to the United States in the amount or amounts, as set forth below.

## SECTION I—Select Simple Transaction OR Continuous Bond (not both) and fill in the applicable blank spaces.

<input type="checkbox"/> SINGLE TRANSACTION BOND (Complete A OR B.)	Date of arrival	Place of arrival	Entry Number	Date of Entry
--	-----------------	------------------	--------------	---------------

<input type="checkbox"/> CONTINUOUS BOND (Give effective date.)	Effective date	This bond remains in force for one year beginning with the effective date and for each succeeding annual period, or until terminated, this bond constitutes a separate bond for each period in the amounts listed below for liabilities that accrue in each period. The intention to terminate this bond must be conveyed within the time period and manner prescribed in the Customs Regulations.		
--	----------------	---	--	--

SECTION II—This bond includes the following agreements.<sup>1</sup> (Check one box only, except that, 1a may be checked independently or with 1, and 3a may be checked independently or with 3.) Line out all other parts of this section that are not used.

Activity Code	Activity Name and Customs Regulations in which conditions codified	Limit of Liability	Activity Code	Activity Name and Customs Regulations in which conditions codified	Limit of Liability
<input type="checkbox"/> 1 Importer or broker.....	113.62		<input type="checkbox"/> 6 Wool & Fur Products Labeling Acts Importation (Single Entry Only).....	113.68	
<input type="checkbox"/> 1a Drawback Payment Refunds.....	113.85		<input type="checkbox"/> 7 Bill of Lading (Single Entry Only).....	113.68	
<input type="checkbox"/> 2 Custodian of bonded merchandise.....	113.63		<input type="checkbox"/> 8 Detention of Copyrighted Material (Single Entry Only).....	113.70	
<input type="checkbox"/> 3 International Carrier.....	113.64		<input type="checkbox"/> 9 Neutrality (Single Entry Only).....	113.71	
<input type="checkbox"/> 3a Instruments of International Traffic.....	113.66		<input type="checkbox"/> 10 Court Costs for Condemned Goods (Single Entry Only).....	113.72	
<input type="checkbox"/> 4 Foreign Trade Zone Operator.....	113.72				
<input type="checkbox"/> 5 Public Gauger.....	113.67				

\* For all bond coverage available and the language of the bond conditions refer to 19 CFR 113 Subpart G, Customs Regulations.

## SECTION III—List the names of principals and incorporated divisions and only after all other parts of this form have been completed, attach this section to the principal's name including their Customs identification number(s). (If more space is needed, use Section III (Continuation) on back of form.)

Importer Number	Importer Name	Importer Number	Importer Name

Total number of importer names listed in Section III:

Principal and surety agree that any charge against them for service of process will be paid as though it was made by the principal(s).

Principal and surety agree that they are bound to the same extent as if they executed a separate document for each condition incorporated by reference to the Customs Regulations into this bond.

If the surety fails to appoint an agent under Title 8, United States Code, Section 1333, the surety consents to service on the Clerk of any United States District Court or the U.S. Court of International Trade where the suit is brought on this bond. That Clerk is to send notice of the service to the surety at:

Mailing Address Requested by the Surety

PRINCIPAL <sup>2</sup>	Name and Address	Importer No.	SEAL
SURETY <sup>3</sup>	Name and Address	Surety No.	SEAL
SURETY <sup>3</sup>	Name and Address	Surety No.	SEAL
SURETY AGENTS	Name	Identification No. Name	Identification No.

<sup>1</sup>If the principal or surety is a corporation, the name of the State in which incorporated must be shown.

<sup>2</sup>See witness requirement on back of form.

Note: Turn carbons over before writing on back of form.

**SECTION III (Continuation)**

Importer Number	Importer Name	Importer Number	Importer Name

<b>CERTIFICATE AS TO CORPORATE PRINCIPAL*</b>	I, _____, certify that I am the _____ Secretary of the corporation named as principal in this bond, that _____, who signed the bond on behalf of the principal, was then _____ of the corporation; that I know his signature, and his signature is genuine; and that the bond was duly signed, sealed, and attested for and on behalf of the corporation by authority of its governing body.		
	SIGNATURE:	(CORPORATE SEAL)	

\* The certificate as to corporate principal is to be used when no power of attorney has been filed with the District Director of Customs.

<b>WITNESSES</b>	SIGNED, SEALED, and DELIVERED in the PRESENCE OF:		
	Name and Address of Witness for the Principal	Name and Address of Witness for the Surety	
SIGNATURE:	SIGNATURE:		
Name and Address of Witness for the Principal	Name and Address of Witness for the Surety		
SIGNATURE:	SIGNATURE:		

**EXPLANATIONS**

1. The Customs Bond Number is a control number assigned by Customs to the bond contract when the bond is approved by an authorized Customs official.
2. The Importer Number is the Customs identification number filed pursuant to Section 24.5, Customs Regulations.
3. Surety Name shall be the company's name as it is spelled in the Surety Companies Annual List published in the Federal Register by the Department of the Treasury (Department Circular 570).
4. Surety Number is the three digit identification code assigned by Customs to a surety company at the time the surety company initially gives notice to Customs that the company will be writing Customs bonds.
5. Surety Agent is the individual granted a Corporate Surety Power of Attorney, CP 5297, by the surety company executing the bond.
6. Agent Identification No. shall be the individual's Social Security number as shown on the Corporate Surety Power of Attorney, CP 5297, filed by the surety granting such power of attorney.

Back of Customs Form 301 Proposal (110182)

## APPENDIX B

Proposed bond provision to appear in Customs regulations	Reason for provision	Related provision(s) in current bond, Customs regulation or rider <sup>1</sup>	Related statute(s)	Related Customs regulation(s)
113.62(a)(1) .....	Secures deposit of estimated duty and additional duty.	CF 7551(1) <sup>2</sup> , CF 7553(1), CF 7595(8), CF 7601, T.D. 80-1738(8), 19 CFR 147.3.	19 U.S.C. 1484, 1505, 1752.	19 CFR 141.1, 141.3, 142.4, 159.9, 147.3, 147.14, 147.42.
113.62(a)(2) .....	Secures payment of duty on merchandise left in a bonded warehouse or improperly removed from a warehouse.	CF 7555(1), CF 7595(8), T.D. 80-1738(8).	19 U.S.C. 1505, 1557..... T.D. 80-1738(8).	19 U.S.C. 144.13, 159.9, 159.52.
113.62(b) .....	Secures promise to make entry.....	CF 7551(2), CF 7553(2), CF 7595(1), T.D. 80-1732, Rider L (T.D. 73- 198), Rider N (T.D. 73-329), 19 CFR 147.3.	19 U.S.C. 1448(b), 1484(a), 1752.	19 CFR 141.5, 141.19, 142.21, 147.3, 147.14, 147.42.
113.62(c) .....	Secures promise to produce any required evidence.	CF 7551(8), CF 7553(8), CF 7555(4), CF 7595(2), CF 7601, T.D. 80- 1735, 19 CFR 147.3.	19 U.S.C. 1484, 1485, 175.	19 CFR 113.41, 113.42, 113.43, 141.66, 141.91, 147.3.
113.62(d) .....	Secures promise to redeliver conditionally-released merchandise.	CF 7551(4, 5, 6), CF 7553(4, 5, 6), CF 7555(6, 6, 7), CF 7595(4, 5, 6), CF 7601, T.D. 80-1736(R), Rider J (T.D. 73-198), 19 CFR 147.3.	19 U.S.C. 1202, 1304, 1499, 1752.	19 CFR 12.3, 12.12, 12.39, 12.73, 12.80, 12.85, 12.91, 12.115, 134.53, 141.113, 147.23, 147.24, 151.1, 151.7(d), 151.11.
113.62(e) .....	Secures promise to bring conditionally-released merchandise into compliance with U.S. admission requirements.	CF 7551(7), CF 7553(7), CF 7555(8), CF 7595(7), 19 CFR 147.3.	19 U.S.C. 1202, 1304, 1499, 1752.	19 CFR 12.12, 12.73, 12.80, 12.85, 12.91, 134.53, 141.113, 147.3, 147.21, 147.22, 147.23, 147.24, 151.1.

## CUSTOMS

113.62(f).....	Secures promise to hold conditionally-released merchandise intact for examination.	CF 7551(3), CF 7553(3), CF 7595(3), CF 7601, T.D. 80-173(3), 19 CFR 147.3.	19 U.S.C. 1449, 1752.....	19 CFR 12.23, 147.3, 151.7(d).
113.62(g).....	Secures promise to pay compensation of Customs officers and exonerate Customs officers.	19 CFR 147.3 .....	19 U.S.C. 1524, 1557, 1562, 1752.	19 CFR 24.17(a) (3), (8), (9), (10), 147.33.
113.62(h).....	Secures promise to use merchandise entered free or at a reduced rate in the manner as entitled and to furnish proof of that use.	CF 7547, CF 7549, CF 7555(2, 3), CF 7557, CF 7559, CF 7561, CF 7563, CF 7568-a, CF 7565, CF 7571, CF 7595(9, 10, 11, 12), CF 7603, 19 CFR 147.3, T.D. 2831, Rider A, C, D, E, F, H (T.D. 73-198).	19 U.S.C. 1202, 1309, 1311, 1312, 1552, 1553, 1557, 1752.	19 CFR Part 10, Part 18, Part 19, Part 144, Part 147.
113.63(a).....	Secures promise of a custodian to comply with Customs regulations on bonded merchandise.	CF 3581(1, 3), CF 3583 (1, 2), CF 3587(1), CF 3588(1, 19 CFR 19.40, T.D. 80-173(1, 7).	19 U.S.C. 1311, 1312, 1551, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 125, Part 147.
113.63(b).....	Secures promise of a Customs bonded carrier to safely keep bonded merchandise placed in carrier's custody and comply with regulations on carriage of bonded merchandise.	CF 3587(2), CF 3588(2, 4), CF 3855(1).. 19 CFR Part 18.	19 U.S.C. 1311, 1312.....	19 CFR Part 18.
113.63(c).....	Secures promise of a Customs bonded custodian to comply with regulations on disposition and reporting requirements.	CF 3581, CF 3583, CF 3587(3, 4, 10), CF 3588(3, 4, 11).	19 U.S.C. 1311, 1312, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 127.
113.63(d).....	Secures promise of a Customs bonded carrier, or cartage or lightercage operator to redeliver on Customs demand any misdelivered bonded merchandise.	New 19 U.S.C. 1551, 1552, 1553 .....	19 CFR 18.6 .....	
113.63(e).....	Secures promise to comply with all laws and regulations on conveyances and employees.	CF 3581(1), CF 3588(1), CF 3587(1), CF 3588(1), CF 3855(1, 4), T.D. 80-173(1, 19 CFR 112.49.	19 U.S.C. 1311, 1312, 1551, 1552, 1553, 1555.	19 CFR Part 18, Part 19, Part 112, Part 125, Part 127.

## APPENDIX B—Continued

## CUSTOMS

Proposed bond provision to appear in Customs regulations	Reason for provision	Related provision(s) in current bond, Customs regulation or rider <sup>1</sup>	Related statute(s)	Related Customs regulation(s)
113.63(f) .....	Provides indemnification and exoneration of Government and secures payment for reimbursable services.	CF 3583(2, 4), CF 3583 (3, 5), CF 3587(6, 7, 8), CF 3588(7, 8, 9), CF 3853(3), CF 7597, CF 7599, T.D. 80-173 (3, 4), 19 CFR 19.40 (2, 6), 127.49(2).	19 U.S.C. 287, 1311, 1311, 1451, 1551, 1555.	19 CFR 19.3, 19.5, 24.16, 24.17.
113.64(a) .....	Secures promise to pay penalty, duty, tax or charges incurred by the vessel, vehicle, or aircraft or the person in charge of such conveyance if clearance is granted before amount is paid.	CF 7567(1), CF 7569(1), CF 7605 .....	19 U.S.C. 1431-1466, 1581-1588, 1594, 1595a.	19 CFR 4.14, 4.61, 6.10, 14.16, 24.17, 123.2, 162.22, 162.72.
113.64(b) .....	Secures promise to comply with laws and regulations on bringing merchandise into the U.S.	CF 75673, 4, 5), CF 75693, 4, 5), CF 7593, CF 7605.	CF 19 U.S.C. 1448(a), 1707 ..	19 CFR 4.30, 6.7, 123.8.
113.64(c) .....	Secures promise to deliver export documents if clearance is permitted without those documents.	CF 7303, CF 7567(6), CF 7569(6), CF 7605.	46 U.S.C. 91 .....	19 CFR 4.75, 6.3, 6.8.
113.64(d) .....	Provides exoneration for Government if a special permit to load or unload is given.	CF 7567(2), CF 7569(2), CF 7605 .....	19 U.S.C. 1451 .....	19 CFR 4.30, 6.2, 123.8.
113.65 .....	Secures repayment of erroneous drawback payment under the summary procedure or the accelerated payment program.	CF 7609, CF 7611, CF 7613, Rider K (T.D. 75-198), Rider P (T.D. 78-140).	19 U.S.C. 1313 .....	19 CFR 22.7, 22.20a.

113.66 .....	Secures compliance with laws and regulations on introduction of instruments of international traffic and other shipping containers without entry.	CF 7587, 19 CFR 10.41b .....	19 U.S.C. 1202, 1322.....	19 CFR 10.41a, 10.41.
113.67 .....	Secures compliance with regulations on gauging.	T.D. 81-142.....		19 CFR 151.49.
113.68 .....	Secures compliance with provisions of wool and fur products labeling acts.	Customs Circular CF 7581 .....	BON-1-O:O:E, 15 U.S.C. 68, 69 .....	August 4, 1975.
113.69 .....	Provides indemnification if merchandise is released without a bill of lading.	Customs Circular CF 7581 .....	COP-1-PEN, 17 U.S.C. 106, 108.....	19 CFR 141.15.
113.70 .....	Provides identification for any damage arising out of a detention of merchandise erroneously believed to be piratical copies.	Customs Circular May 23, 1961.		
113.71 .....	Secures an agreement to observe neutrality.	T.D. 45474.....		
113.72 .....	Provides for payment of court costs if judicial proceedings result in condemnation of property.	CF 4615.....	22 U.S.C. 468.....	19 CFR 4.73.
113.73 .....	Secures compliance with laws and regulations on foreign-trade zones.	Customs Circular September 3, 1976.	FOR-2-O:1:C, 19 U.S.C. 81a-o.....	

<sup>1</sup> Appendix E lists all Customs bonds by Customs form number and title. The appendix also includes bond riders.

<sup>2</sup>The numbers which appear in parenthesis after the bond refer to the numerical designation of the condition appearing in the bond which has been incorporated into the proposed bond conditions identified by each line item in this appendix.

APPENDIX C

<b>— U.S. DISTRICTS AND CODES —</b>	
Anchorage, AK	J 1 Duluth, MN
Baltimore, MD	J 3 El Paso, TX
Boston, MA	J 4 Great Falls, MT
Bridgewater, CT	J 6 Honolulu, HI
Buffalo, NY	J 9 Houston-Galveston, TX
Charleston, SC	J 16 Laredo, TX
Cleveland, OH	J 41 Los Angeles, CA
Chicago, IL	J 39 Miami, FL
Dallas-Ft. Worth, TX	J 55 Milwaukee, WI
Detroit, MI	J 37 Mobile, AL
J 38 New York, NY	J 10 New Orleans, LA
	J 35 Nuggets, AZ
	J 33 Norfolk, VA
	J 32 Ordensburg, NY
	J 53 Pensacola, ND
	J 23 Philadelphia, PA
	J 27 Portland, ME
	J 52 Portland, OR
	J 36 Port Arthur, TX
	J 19 Providence, RI
	J 05 San Diego, CA
	J 25 San Juan, PR
	J 26 Savannah, GA
	J 14 St. Louis, MO
	J 07 Seattle, WA
	J 34 Tampa, FL
	J 01 Virgin Islands, U.S.
	J 29 Washington, DC
	J 21 Wilmington, NC
	J 05
	J 15

**EXPLANATIONS:**

1. A Corporate Surety Power of Attorney, Customs Form 5297, must be executed for each of the following actions; grant an individual a power of attorney; change a name and/or address, and/or add districts to a power on file; receive a power previously granted.

2. Form submission option: Each of the following conditions will require filing copy of the Customs Form 5297:

- (a) If the district director permits the submission of the form to be made at any point within the district.  
 (b) If the surety desires to use the power of attorney at a location covered by the power, but other than the location where the power was submitted, before the Customs computer processing has been completed. (or example: if both conditions are applicable, two copies of the Customs Form 5297 must be submitted with the original).

3. The box adjacent to the action executed on this Customs Form 5297 must be checked. The effective date for the action checked should be shown.  
**(a) If grant is checked:** The information required to grant a power of attorney are self-explanatory with the exception of the following:  
 District Information: Each district in which the power is granted must be shown except II, the power both applies to all districts and the amount limit is the same in every one of those districts, enter the word "ALL." On the first line under "District".

Amount Limit: In any of the districts in which the power is granted, individual amount limits must be shown for each of the districts, in which the power is granted, and the amount limit in which the power is granted, and the same amount limit must be shown for all districts. (1) To make a name and/or address change, the same amount limit must be shown for all districts. (2) If the amount limit is not equal to the surety company limit, the amount limit must be shown for all districts. (3) If all the amount limits are not equal to the surety company limit published in the Treasury Department Circular 570, enter the word "SAME" on the second line.

Surety: The number required in the 3 digit identification code assigned by Customs Headquarters to a surety company, listed on Treasury Circular 570, at the time the surety company initially gives notice to Customs that this company will be writing Customs bonds.

(b) To change a Corporate Surety Power of Attorney already on file, the previously filed power granted must be revoked and a new Power (CF 5297) must be filed EXCEPT changes to the name and/or address and the addition of districts to a power on file. (1) To make a name and/or address change, the same formation that was submitted to establish the existing power on file is required except the new name and/or address must be shown in the space provided and the district code(s) and related obligation limit(s) can be left blank. (2) To add districts, the same information that was submitted to establish the existing power on file is required except only the new districts and related obligation limits are necessary in the space provided.

(c) If "revoke" is checked: A revocation directs the designated agent or attorney in all districts. Except for the following, the instruction required in revoke the power of attorney for the districts in which authorized to do business and the restricted single obligation limits do not have to be shown.

**PRIVACY ACT STATEMENT:** The following notice is given pursuant to section 7(b) of the Privacy Act of 1974 (5 U.S.C. 552a). Furnishing the information on this form, including the Social Security Number, is mandatory. The primary use of the Social Security Number is to verify the information system, at the time an agent submits a Customs bond for approval that the individual was granted a Corporate Surety Power of Attorney by the Surety Company on file. Section 7 of Act of July 30, 1944, chapter 390, 61 Stat. 646, authorizes the collection of this information.

## **APPENDIX D.—INITIAL REGULATORY FLEXIBILITY ANALYSIS ON PROPOSED AMENDMENTS TO REVISE THE CUSTOMS BOND SYSTEM**

### **INTRODUCTION**

The Customs Service is proposing an extensive revision of its bond structure in order to consolidate and simplify the number of bond forms, facilitate the establishment of an efficient computerized bond control system, and simplify transactions between Customs and the importing community.

The Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis be prepared on proposed regulations unless it is determined that the regulations will not have a "significant economic impact on a substantial number of small entities." Since a number of brokers, importers, and other entities in the importing community can be considered to be small entities under the RFA, and since the proposed amendments (if implemented) may indeed result in an economic impact of some significance on these entities, this initial regulatory flexibility analysis has been prepared. The analysis will be modified, as appropriate, into a "final" regulatory flexibility analysis subsequent to the receipt of public comments which will follow the publication of the notice of proposed rulemaking in the Federal Register.

### **OBJECTIVES AND LEGAL BASIS OF THE PROPOSED RULE**

The proposal's objective is to reduce the cost of bonding to the importing community and to improve Customs control over bonding, which includes improvements to facilitate the enforcement of bond provisions and to reduce the cost of associated functions.

The legal basis or authority for the proposed changes is R.S. 251, as amended (19 U.S.C. 66), and Section 623; as amended, 624, 46 Stat. 759 (19 U.S.C. 1624).

### **ESTIMATED NUMBER OF SMALL ENTITIES AFFECTED**

The proposed amendments would affect most small entities in the importing community. This includes the over 1,000 customhouse brokers, hundreds or thousands of importers, and other entities such as surety companies, warehouse operators, bonded carriers, international carriers, cartmen/lightermen, foreign trade zone operators, and container station operators.

**IMPACT OF THE PROPOSED AMENDMENTS ON SMALL ENTITIES IN THE IMPORTING COMMUNITY**

The Customs Service believes that the proposed amendments will in general be *beneficial* to the importing community via the consolidation of bond forms, the simplification of transactions between Customs and the importing community, the facilitation of the establishment of an efficient computerized bond control system, the general streamlining of procedures, and the overall reduced cost of bonding.

The actual economic impact of the proposed amendments on the import community cannot be adequately measured given the data assembled thus far, but (as mentioned above), the overall economic impact is expected to be beneficial. However, the proposed revision of the Customs bond structure has raised a number of issues which appear to have economic consequences. Such issues are briefly discussed in this analysis in order that public comments may specifically be obtained on such issues and related issues, thereby shedding new light on any existing economic factors, especially with regard to small entities in the importing community. Comments on such issues (and on the bond system in general) will enable the Customs Service to better comprehend the economic impact on small entities of some of the proposed amendments and of the entire bond system, and will assist in devising alternatives, if appropriate, to minimize any adverse economic impact on small entities.

A major aspect of any revision in the Customs bond system is the extent to which the system can be modernized or streamlined in such a way that costs to the importing community (and ultimately to U.S. consumers) are minimized while still protecting the revenue and other Customs enforcement responsibilities.

To be sure, the bond system helps to secure certain foreign trade transactions (e.g., payment of appropriate duties and taxes, ensurance of redelivery of imported merchandise to Customs custody for examination or inspection, and the production of appropriate invoices, certificates, and other documentation) and to generally ensure compliance. However, there are certain aspects of the bond system where it may indeed be possible to further minimize expenses and paperwork for the importing community (e.g., perhaps making it possible for importers to have their own bonds rather than bonds secured by surety companies). To the extent that pertinent suggestions on cost minimization can be made, such suggestions would be appreciated in the public comments to this notice (especially suggestions relating to further savings for small entities in the importing community).

**SELECTED COST REDUCTION MEASURES OF THE PROPOSED  
AMENDMENTS**

The proposed amendments will reduce costs and streamline procedures by consolidating and reducing the number of different bond forms currently in use (approximately 50) to one standard form. Once filed, the agreements on the form will automatically remain in effect until Customs is advised otherwise. Moreover, the number of bond forms that must be filed for control purposes under the current system will be reduced. Also, under existing regulations some bond forms (e.g., CF 7553, ID and Consumption Entry Bond) must be filed at each port, unless exempted; such an exemption requires filing copies of an approved bond at all the ports where a firm will engage in business. Under the proposed change a bond filed at a district level will suffice for business transacted at all the ports within that district.

The language of the bond conditions will also be simplified and all conditions of bond agreements will be reflected in one location in the Regulations. This will tend to reduce cost, correspondence, and time spent on inquiries, disputes, counterclaims, etc., which are caused by difficulties in the interpretation of current bond language.

Bond coverage requirements will be more flexible than the current bond contract forms. As a consequence, a principal on a bond will be able to receive Customs service in a wider geographic area (districtwide as opposed to port level) when necessary, without being forced to purchase another bond. This will especially benefit small entities. The following illustrates this flexibility: if a small importing firm only conducts business in one port of entry and an occasion arises where the merchandise is shipped to another port in the district, under the change proposed the district bond filed would cover that transaction rather than requiring the filing of another bond or becoming involved with in-bond shipment requirements.

Other cost reduction and facilitation measures resulting from the proposed amendments include the following selected examples: (1) importers entering merchandise for consumption or under Immediate Delivery privileges currently, for control purposes, must file a bond at each port where entry of merchandise will be accomplished. Under the control envisioned in the proposed change, only one district level bond will be required which would be applicable to all ports within the district. (2) Currently, many term bond contracts are valid for a period of 1 year. Thus, an individual or firm must file a new bond form each year, with all the contractual formalities, time, and cost that entails. However, under the proposed bond renewal feature, once a term bond is filed it will be automatically renewed unless Customs is advised otherwise by the principal or surety. Thus, all the contractual formalities will no longer be required and Customs will not have to undergo the concomitant

timely and costly bond approval process. (3) When a small firm is engaged in a business which involves filing dutiable consumption as well as warehouse entries and its annual, aggregate duty paid or accrued is less than \$100,000 (minimum General Term Bond amount), the bond that would normally be purchased for such repetitive business in these circumstances under the current bond structure is the CF 7553, ID and Consumption Entry Bond. That bond covers all consumption entries filed during a 1-year period. However, for each warehouse entry filed, a CF 7555, Warehouse Entry Bond is required. Under the proposed change, a small firm, under these same circumstances, will be able to purchase one bond which will cover consumption and warehouse entries.

The above-mentioned changes are among those which are expected to have a beneficial impact on the importing community. In addition, a number of other issues in the proposed revision of the bond structure may also have an economic impact. Indeed, a number of suggestions on the revision of the Customs bond system have already been received via public comments to the Advanced Notice of Proposed Rulemaking. Some of these suggestions and issues are briefly discussed below in order to solicit further public comments on specific economic effects on small entities.

A number of commenters indicated that a too rapid conversion to the revised bond system could prove costly and unwieldy to various entities in the importing community. The Customs Service has now extended the proposed conversion period of term bonds to 12 months (a period suggested by some of the commenters). An alternative would be to extend the period to more than 12 months; however, Customs believes that a 12-month conversion period is sufficient to provide an orderly transition without being significantly costly to the importing community.

One issue concerns the possibility that sureties would modify their rates if the proposed amendments are implemented and the bond structure is revised. Of course, the actual decision on such rate matters ultimately rests with the sureties themselves; however, it appears that the bond structure revision will not warrant a significant increase in rates, and could even result in lower overall premiums.

A number of other issues have been raised which could have an economic effect on small entities, notably on customhouse brokers. One issue is that the present \$10,000 bond minimum may in some cases be too high for certain brokers, especially if (for example) they will be required to file at many ports within a district. A second issue is whether the new required bond may be larger than sureties will be willing to write for some brokers. A third issue is whether the choice of a port level bond (in lieu of a district bond) would be of special benefit to small brokers or importers, or at least the option of listing (on the district bond) ports where the brokers have no interest in serving. Another issue is whether bonds

should specifically provide for mitigation rights by sureties in cases with liquidated damage claims, and for specific mitigation proceedings for non-Customs violators. Customs responses to such issues appear in the summary of comments section elsewhere in this regulatory package. However, subsequent to the receipt of public comments to this notice, Customs will continue to study these issues and various suggested alternatives in order to minimize any economic impact on small entities.

#### ALTERNATIVES CONSIDERED

The proposed amendments would comprehensively revise Customs bond structure, and are intended to help minimize costs to both small and large entities in the importing community.

Indeed, a number of alternatives have already been incorporated in order to minimize any economic burden, e.g., providing a 12-month transition period to implement the new bond structure. Other, and perhaps new, alternatives will be studied subsequent to the receipt of public comments; these comments may provide additional data and information with which to assess the economic impact of various specific alternative methods of revising and implementing the Customs bond structure and the overall bond system.

#### REPORTING, RECORDKEEPING, AND COMPLIANCE REQUIREMENTS

The RFA requires that regulatory flexibility analyses contain "a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule . . ." In this instance, the anticipated reporting, recordkeeping, and compliance requirements are essentially the same as currently required. Indeed, there will probably be an overall reduction in such requirements.

#### REQUEST FOR SPECIFIC PUBLIC COMMENTS

It is requested that public comments on this regulatory analysis and the accompanying notice of proposed rulemaking be specifically directed to the effects of the proposed amendments (or various alternatives) on costs, profitability, competition, recordkeeping, and any other economic factors pertaining to small entities affected. Specific delineation of costs, etc. (in dollar amounts) of the proposed amendments and various alternatives will help provide Customs with the basis and rationale for implementing procedures or alternatives which minimize any adverse effects of the Customs bond structure on small or large entities in the importing community.

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**APPENDIX E.—LIST OF CUSTOMS BONDS AND RIDERS TO BE  
ABOLISHED**

- Customs Form 3581, Proprietor's Warehouse Bond  
Customs Form 3583, Proprietor's Manufacturing Warehouse Bond  
Blanket Smelting and Refining Bond (form prescribed by T.D. 72-244)  
Public Gauger's Bond (form prescribed by Customs Circular BON-3-R:CD:D, July 10, 1975)  
Customs Form 3587, Carrier's Bond  
Customs Form 3588, Private Carrier's Bond  
Customs Form 3855, Bond of Customs Cartman or Lighterman  
Customs Form 4615, Bond of Claimant of Seized Goods for Cost of Court  
Customs Form 7303, Bond for the Production of Manifest and Shipper's Export Declaration  
Customs Form 7547, Special Bond—Wool or Hair of the Camel (Single Entry)  
Customs Form 7549, Special Bond—Wool or Hair of the Camel (Term)  
Customs Form 7551, Immediate Delivery and Consumption Entry Bond (Single Entry)  
Customs Form 7553, Immediate Delivery and Consumption Entry Bond (Term)  
Customs Form 7555, Warehouse Entry Bond  
Customs Form 7557, Bond for Exportation or Transportation or For Transportation and Exportation (Single Entry)  
Customs Form 7559, Bond for Exportation or Transportation or For Transportation and Exportation (Term)  
Customs Form 7561, Bond for Articles Entered or Withdrawn From Warehouse Conditionally Free of Duty  
Customs Form 7563, Bond for Temporary Importations (Single Entry)  
Customs Form 7563-A, Bond for Temporary Importations (Term)  
Customs Form 7565, Exhibition Bond  
Customs Form 7567, Vessel, Vehicle or Aircraft Bond (Single Entry)  
Customs Form 7569, Vessel, Vehicle or Aircraft Bond (Term)  
Customs Form 7571, Bond on Entry From Manufacturing Warehouse  
Customs Form 7581, Bond to Produce Bill of Lading  
Customs Form 7587, Bond for the Control of Certain Instruments of International Traffic  
Customs Form 7591, Antidumping Bond  
Customs Form 7593, Landing Bond for Alcoholic Beverages  
Customs Form 7595, General Term Bond  
Customs Form 7597, Bond to Secure the Payment of Overtime Services (Single Entry)

- Customs Form 7599, Bond to Secure the Payment of Overtime Services (Term)
- Customs Form 7601, Superseding Bond of the Actual Owner of Imported Merchandise Whose Declaration Has Been Filed Pursuant to Title 19, United States Code, Section 1485(d)
- Customs Form 7603, Bond for Conditionally-Free Withdrawal of Distilled Spirits (Including Alcohol), Wines, or for Beer, or for Supplies of Fishing Vessel
- Customs Form 7605, Consolidated Aircraft Bond
- Customs Form 7609, Bond for Accelerated Payment of Drawback (Single Entry)
- Customs Form 7611, Bond for Accelerated Payment of Drawback (Term)
- Customs Form 7613, Drawback Export Bond
- Special Bond for the Entry of Merchandise Believed to Involve Unfair Practices (form prescribed in T.D. 45474)
- Special Narcotics Bond Under the Provisions of Title 19, United States Code, Section 1584 (form prescribed in T.D. 45474)
- Bond for Observance of Neutrality (form prescribed in T.D. 45474)
- Containerized Cargo Bond (form prescribed in 19 CFR 19.40)
- Trade Fair Bond (form prescribed in 19 CFR 147.3)
- Copyright Bond (form prescribed in Customs Circular COP-1-PEN, March 23, 1961, Subject: Copyrights; Artificial Flowers—Piratical Copies)
- Special Bond for the Importation of Flammable Fabrics (form prescribed in Customs Circular RES-2-AC, October 29, 1971, Subject: Restrictions and Prohibitions; Importations of Merchandise Subject to the Flammable Fabrics Act)
- Bond of Customs Cartman for Issuance of Temporary Identification Card (form prescribed in 19 CFR 112.49(d))
- Bond of Foreign Trade Zone Operators (form prescribed in Customs Circular FOR-2-O:1:C, September 3, 1976)
- Bond for Storage of Imported Tea (form prescribed in T.D. 29311)
- Special Performance Bonds (form prescribed in Customs Circular BON-1-O:D:E, August 4, 1975, Subject: Special Performance Bonds)
- Bond for the Control of Identified Shipping Containers (form prescribed in 19 CFR 10.41b(h))
- Rider A, Agreement to account for articles, wastes, and irrecoverable losses incurred in manufacture or production under item 864.05, TSUS—to be added to CF 7563A and CF 7595 (form prescribed in T.D. 73-198)
- Rider B, Deferred payment of internal revenue taxes—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73-198)
- Rider C, Imported sugar subject to item 901.00, TSUS—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73-198)

- Rider D, Withdrawals of vessel supplies under section 309(a), Tariff Act of 1930—to be added to CF 7595 (form prescribed in T.D. 73-198)
- Rider E, Withdrawals of rewarehoused products of a class 6 warehouse—to be added to CF 7595 (form prescribed in T.D. 73-198)
- Rider F, Withdrawals from warehouse under authority of section 5066 (b) and (c) of the Internal Revenue Code—to be added to CF 7595 (form prescribed in T.D. 73-198)
- Rider G, Transfer of unentered bulk shipments arriving on another carrier, consigned to the principal on a vessel, vehicle, or aircraft bond—to be added to CF 7569 (form prescribed in T.D. 73-198)
- Rider H, Storage at airports of articles withdrawn from continuous Customs custody—to be added to CF 7569 (form prescribed in T.D. 73-198)
- Rider J, Conditional release of seed and screenings—to be added to CF 7553 and CF 7595 (form prescribed in T.D. 73-198)
- Rider K, Proof of export under the exporter's summary procedure—to be added to CF 7595 (form prescribed in T.D. 73-198)
- Rider L, Immediate delivery conditions—to be added to CF 7563-A (form prescribed in T.D. 73-198)
- Rider M, entry for warehouse of petroleum and petroleum products under Presidential Proclamation No. 4210—to be added to CF 7595 (form prescribed in T.D. 73-284)
- Rider N, Deposit of merchandise in a bonded warehouse prior to the filing of a warehouse entry therefor—to be added to CF 7553 (form prescribed in T.D. 73-329)
- Rider O, Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to CF 7553 or CF 7595 (form prescribed in T.D. 76-264)
- Rider P, Accelerated payment of drawback claims—to be added to CF 7595 (form prescribed in T.D. 78-140)
- Special rider to existing entry bonds for entry of merchandise found or believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (form prescribed in 19 CFR 113.14(z)(2))

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APPENDIX F.—SAMPLE LETTER TO DELINQUENT SURETIES

GENTLEMEN: This is a formal demand for payment of amounts shown on the Customs bills enclosed. According to our records, the amount due remains unpaid as of this date. For your reference, where you have not already received them we have enclosed copies of the originating documents (i.e., entry, request for reimbursable service, etc.) and applicable Customs bond numbers for bonds secured by you.

Unless payment in full is received by this office on or before (a specific date, not less than ten working days from the date of the letter), appropriate Customs officials will be notified to refuse ac-

ceptance of new bonds written by you as surety and to reexamine whether your current bonds provide the security intended of them. Also, we will be further reviewing the extent and number of payment deficiencies to determine if reasonable grounds exist to believe that your company is not honoring its obligations. Such circumstances could warrant that the matter be forwarded to Customs Headquarters and the Department of the Treasury recommending the withdrawal or revocation of your company's certification of authority to do business as a surety with the United States Government.

We recognize that you may believe satisfactory evidence exists establishing that your failure to pay is the result of significant, non-frivolous questions of fact or law, or that the requested payment is beyond the scope of the applicable bond. When this is the case, such evidence must be communicated in writing to this office within the time period noted above to preclude immediate action adverse to your company. Should we consider the reasons given for failure to pay to be inadequate, you will be notified and given three business days from the date of notification to tender payment.

After consideration of your company's payment record and reasons submitted for nonpayment or late payment, a decision will be made concerning further acceptance of your company's bonds. Should a decision be made to refuse to accept *new* bonds from your company it will be communicated to you in writing and delivered in person or by certified mail. The action will be effective on a date certain, but not less than five working days from the date of decision. Absent extraordinary circumstances, once a decision is made to refuse to accept your company's bonds it will remain in effect for five working days or until your past due accounts are cleared, whichever is later.

Sincerely,

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19 CFR Parts 24, 113

**Proposed Customs Regulations Amendments to Establish Interest Charges on Certain Delinquent Accounts**

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Customs Regulations to establish interest charges for the late payment of supplemental duty bills (bills for additional duties ascertained upon liquidation), reimbursable services, and miscellaneous bills issued by Customs to organizations outside the U.S. Government, including sureties.

Customs and the Treasury Department believe that charging interest on delinquent accounts will provide an incentive for prompt

payment and, if accounts are not paid timely, provide for reimbursement of interest costs resulting from Government borrowing.

DATE: Comments must be received on or before (60 days from the date of publication in the Federal Register).

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Accounting and Policy Aspects: Robert B. Hamilton, Accounting Division (202-566-2596); Bond Text Aspects: William Rosoff, Carriers, Drawback and Bonds Division, (202-566-5856); U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

In a report from the Comptroller General to Congress dated August 21, 1978, the General Accounting Office recommended that Customs charge interest on all supplemental duty accounts 30 days past due as part of an effort for the U.S. Government to maximize its use of Customs collections to decrease Government borrowings. That report states that in the Customs Regions of Boston, Chicago, Los Angeles, and New York, accounts receivable for supplemental duties averaged \$8.5 million each month from April 1976 to March 1977 and that approximately 38 percent of that amount was over 90 days past due.

Section 306 of Pub. Law 96-304 (94 Stat. 928, July 8, 1980), requires that an agency improve the collection of overdue debts owed to the United States within the jurisdiction of that agency and bill interest on delinquent debts as required by the Federal Claims Collection Standards.

Chapter II of Title 4, CFR, "Federal Claims Collection Standards" provides in section 102.1 (4 CFR 102.1), that the head of an agency or his designee shall take aggressive action, on a timely basis with effective followup, to collect all claims of the United States for money or property arising out of the activities of, or referred to, his agency in accordance with the standards set forth in that chapter. Also, 4 CFR 102.11 provides that in the absence of a different rule prescribed by statute, contract, or regulation, interest should be charged on delinquent debts and debts being paid in installments in conformity with the Treasury Fiscal Requirements Manual ("TFRM").

House Report 97-21, on Customs authorization bill for Fiscal Year 1982 at pages 6 and 7, expressed the clear intent that Customs charge interest on overdue duties and fees.

Courts have held that interest may be charged on overdue accounts without express statutory authority when the Government's position is primarily that of a creditor collecting from a debtor, *Billings v. United States* 232 U.S. 261, 284-88 (1914); *McGrath v. Manufacturers Trust Co.*, 338 U.S. 241 (1949); *Rodgers v. United States*, 332 U.S. 371 (1947). Thus, interest may be assessed pursuant to statutes having no express reference to the collection of interest where the obligation accrues to the Government upon contractual indebtedness or indebtedness arising out of taxes. In particular, interest has been collected by the Government for unpaid overdue Customs duties, *United States v. Mexican International Railway Co.*, 154 Fed. 519 (1907).

In an effort to improve cash management practices, the Treasury Department has issued requirements prescribing cash management related procedures, including the necessity for interest charges on overdue receivable accounts. Part 6, Chapter 8020.20, TFRM, provides that a late charge will be collected at a percentage rate based on the current value of funds to the Treasury for overdue payments owed to the U.S. Government. It is noted that the Debt Collection Act of 1982, Pub. L. 97-365, changes the method by which the Secretary of the Treasury assesses interest charges for outstanding debts on claims owed the Government. Furthermore, in light of Section 8(e) of Pub. L. 97-365, it appears that Customs is not covered by major portions of this recent law because except as noted therein, the law does not apply to claims or indebtedness arising under the "tariff laws of the United States." However, because the Government also would be recovering its costs in matters relating to Customs, Customs intends to use the applicable percentage rate of interest based upon the current value of funds to the Treasury which is published in TFRM bulletins. In most instances in which a debtor fails to pay its debts to the Customs Service on a timely basis, the inherent authority identified in Federal Court opinions fully supports the adoption and use of an interest rate that covers the cost of money to the United States. Customs specifically invites the public to submit comments on this point.

Present Customs collection policy is to (1) issue a bill which indicates that it is due and payable upon receipt, (2) pursue collection in accordance with the Federal Claims Collection Act, and (3) if a surety is jointly liable, to make a formal demand on the surety for payment if the bill remains unpaid. Importers are required to post a bond along with each Customs entry to guarantee the payment of increased or additional duties and satisfy other Customs requirements.

Currently, there is no provision for collection of an amount exceeding the principal amount, regardless of the time period of delinquency or additional administrative costs to the U.S. Government incurred as the result of special collection efforts. In Fiscal Year 1979, for instance, the percentage of the number of Customs

supplemental duty and reimbursable services bills issued during that fiscal year and paid within 30 days was 57 percent. Another 30 percent of these bills were paid within 60 days, and only the remaining 13 percent of the bills were paid more than 60 days after the date of the bill. Customs and the Treasury Department believe that charging interest on delinquent accounts will provide an incentive for prompt payment and, if accounts are not paid timely, provide for reimbursement of interest costs resulting from unnecessary Treasury borrowing. Customs believes that a majority of those bills which are now paid within 31 and 60 days after the date of billing will be paid within 30 days with the added incentive of interest charges. This means that approximately 13 percent of the bills issued would result in action by Customs to charge interest.

The proposed regulations provide that interest charges would apply to late payments of supplemental duty bills (bills for additional duties ascertained upon liquidation), reimbursable services (such as provided for in sections 24.16 and 24.17, Customs Regulations (19 CFR 24.16, 24.17)), and miscellaneous bills (bills other than duties, taxes, reimbursable services, liquidated damages, fines, and penalties) issued by Customs to organizations outside the U.S. Government, including sureties.

If payment for an above-mentioned bill is not received by Customs within 25 days after the due date of the bill, interest charges would be assessed upon the delinquent principal amount of the bill, and calculated from the due date of the bill. The applicable interest rate would appear on the bill. Interest on an overdue bill would be assessed on the delinquent principal amount by 30-day periods. The full 30-day interest charge would be assessed for each additional 30-day period or portion thereof that payment is delayed. The current interest rate charged will be published in the Federal Register and TFRM bulletin by the Bureau of Government Financial Operations, Department of the Treasury, prior to each calendar quarter beginning on January 1, April 1, July 1, and October 1. The interest rate also would be available from any Customs regional financial management office after it is published. The rate of interest that will be in effect for the period beginning on January 1, 1983, and ending on March 31, 1983, is 13.00 percent.

If the proposal were adopted, applicable Customs bonds would be amended to provide for the joint and several liability of the principal and surety for interest charges assessed on bills for supplemental duties, reimbursable services, and miscellaneous amounts if such bills are not paid in a timely manner.

As the surety bond would now cover both the principal amount and the interest for late payment of duty, we note that the surety is also subject to an *additional* amount of 6 percent per year on only the amount of duty due pursuant to the Act of March 2, 1799, c. 22, section 65, 1 Stat. 676 (19 U.S.C. 580).

It is the position of the United States Customs Service that section 580 is not an interest charge for the use of funds, but an exaction aimed at motivating apparently recalcitrant debtor sureties to pay rather than force the Government to sue to collect. The retroactive nature of the exaction exposes a non-paying surety to potential liability far out of proportion to the liability of a surety that pays the day before it is sued. In effect, a delay in payment of a period as short as a single day may carry liability for months or years of "interest". Thus, it appears that the six percent charge is not a charge for the use of funds, nor should it be viewed as an alternative to the imposition of such a charge. The views of the public on this question will, of course, be welcomed.

Both the principal (i.e., the importer of record or party in interest) and the surety would be individually notified, at the time of the initial billing for interest and every 30 days thereafter, of the following factors: (i) the amount due, (ii) the accrual of interest charges if payment is not received within 25 days after the due date of the bill, (iii) the applicable TFRM interest rate, and (iv) the joint and several liability of the principal and the surety.

#### EFFECTIVE DATE

The regulations, if adopted, would become effective 180 days after the date of publication of a final rule as a Treasury Decision in the Federal Register and apply:

(1) With respect to overdue bills for supplemental duties, to all entries filed on or after the effective date.

(2) With respect to overdue bills for reimbursable services and miscellaneous amounts, to all actions giving rise to such bills on or after the effective date.

During the period of the delayed effective date, a bond rider would be executed and attached to applicable Customs bonds already on file to provide for the joint and several liability of the principal and surety for interest charges on overdue bills for supplemental duties, reimbursable services, and miscellaneous amounts. In accordance with section 113.26(a), Customs Regulations (19 CFR 113.26(a)), this action would be completed at least 60 days before the delayed effected date. The bond rider also would be attached to, or printed on, all applicable bonds that are executed and filed after the delayed effective date. Use of the rider would eliminate the need for new bond forms at this time.

#### BOND RIDER

It is proposed that a bond rider in the following form shall be executed and attached to applicable Customs bonds:

**RIDER**

(To be attached to all applicable bonds)

If the United States Customs Service does not receive payment of any bill for supplemental duty, reimbursable services, or a miscellaneous amount within 25 days after the due date of the bill, the obligors agree to pay a late charge on that bill in an amount and on terms as provided by regulation for each 30-day period or part thereof that the bill remains unpaid.

**AUTHORITY**

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sec. 1, 19 Stat. 247 (19 U.S.C. 197), sec. 1, 36 Stat. 965, as amended (19 U.S.C. 198), sec. 484, 46 Stat. 722, as amended (19 U.S.C. 1484), sec. 500, 46 Stat. 729, as amended (19 U.S.C. 1500), sec. 505, 46 Stat. 732, as amended (19 U.S.C. 1505), sec. 623, 46 Stat. 759, as amended, (19 U.S.C. 1623), sec. 624, 46 Stat. 759, (19 U.S.C. 1624), sec. 501, 65 Stat. 290 (31 U.S.C. 483a).

**COMMENTS**

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington D.C. 20229.

**THE REGULATORY FLEXIBILITY ACT**

This document is subject to the "Regulatory Flexibility Act" (Act), Pub. L. 96-354, approved on September 19, 1980. However, it has been determined that the proposed amendments do not require a regulatory flexibility analysis under the provisions of sections 603 and 604 of Title 5, United States Code (as added by section 3 of the Act). It is certified that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The bulk of the delinquent amounts outstanding tend to be from large importers, not small importers and other small entities. Indeed, neither small nor large entities are likely to be affected unless they are delinquent in their payments.

**INAPPLICABILITY OF E.O. 12291**

It has been determined that these proposed amendments do not meet the criteria for a "major rule" specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared for this regulatory project.

**RELATED COURT DECISION**

The United States Court of International Trade in *Heraeus-Amersil, Inc., v. United States*, 2 CIT —, 515 F. Supp. 770 (1981), held that any liquidated duties, charges, or exactions are not due and payable at liquidation, but rather at the time of filing of the action or at the expiration of the statute of limitations if no action is filed. In *United States v. Heraeus-Amersil, Inc.*, Appeal No. 81-19 (February 18, 1982), the United States Court of Customs and Patent Appeals affirmed this decision. In light of this holding, Customs has published a final rule document in the Federal Register (T.D. 83-14, 48 FR 1186, January 11, 1983) amending section 24.3(e), Customs Regulations (19 CFR 24.3(e)), to clarify the due date of Customs bills.

**DRAFTING INFORMATION**

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

**LIST OF SUBJECTS IN 19 CFR**

Part 24—Accounting

Part 113—Surety bonds

**PROPOSED AMENDMENTS**

It is proposed to amend Parts 24 and 113, Customs Regulations (19 CFR Parts 24, 113), in the following manner:

**PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE**

It is proposed to amend Part 24 by adding a new section 24.3a after section 24.3 to read as follows:

**24.3a INTEREST CHARGES ON CERTAIN BILLS; NOTICE TO PRINCIPAL AND SURETY.**

(a) Customs bills for supplemental duties (additional duties assessed upon liquidation), reimbursable services (such as provided for in sections 24.16 and 24.17), and miscellaneous amounts (bills other than duties, taxes, reimbursable services, liquidated damages, fines, and penalties) shall be due as provided for in section 24.3(e). If payment is not received by Customs within 25 days after the due date of the bill, interest charges will be assessed upon the delinquent principal amount of the bill, and calculated from the due date of the bill.

(b)(1) The percentage rate of interest to be charged on such bills will be based on the current value of funds to the Treasury Department, as provided by Part 6 of the Treasury Fiscal Requirements Manual. The current interest rate may be obtained from any Cus-

toms regional financial management office shortly after it is available to Customs.

(2) The percentage rate of interest applied to an overdue bill will remain in effect for that bill until complete payment is received.

(3) Interest on overdue bills will be assessed on the delinquent principal amount by 30-day periods. The full 30-day interest charge will also be assessed for additional periods of less than 30 days (e.g., if payment is received by Customs 38 days after the due date of the bill, interest will be charged for a full 60-day period).

(4) In the case of any late payment, the payment received will first be applied to the interest charge on the delinquent principal amount and then to payment of the delinquent principal amount.

(5) The date to be used in crediting the payment is the date on which the payment is received by Customs.

(c) Both the principal (i.e., the importer of record or party in interest) and the surety shall be individually notified on the bill, at the time of the initial billing for interest and every 30 days thereafter, of the following factors:

(1) The amount due,

(2) The accrual of interest charges if payment is not received within 25 days after the due date of the bill,

(3) The applicable Treasury Fiscal Requirements Manual interest rate, and

(4) The joint and several liability of the principal and the surety.

#### PART 113—CUSTOMS BONDS

It is proposed to amend Part 113 by adding a new section 113.4 to read as follows:

##### 113.4 LIABILITY OF PRINCIPALS AND SURETIES FOR INTEREST CHARGES.

The surety and the principal (i.e., importer of record or party in interest) are jointly and severally liable for interest charges on overdue bills for supplemental duties, reimbursable services, and miscellaneous amounts (see 19 CFR 24.3a). All references in Chapter 1 of this title to bills for supplemental duties, reimbursable services, and miscellaneous amounts will be construed to include interest charges as provided for under 19 CFR 24.3a in the event that these bills are delinquent.

WILLIAM VON RAAB,  
*Commissioner of Customs.*

Approved: February 17, 1983.

JOHN M. WALKER, JR.

*Assistant Secretary of the Treasury.*

[Published in the Federal Register, March 10, 1983 (48 FR 10077)]

# U.S. Customs Service

## *General Notice*

(TMK-2 CO:R:E:E)

### Notice of Application for Recordation of Trade Name "CHAMS DE BARON LTD."

Application has been filed pursuant to section 133.21 Customs Regulations (19 CFR 133.21), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CHAMS DE BARON LTD.," used by Chams De Baron Ltd., a corporation organized under the laws of the State of New York, located at 1350 Broadway, New York, New York 10018.

The application states that the trade name is used in connection with the following merchandise which is manufactured in Taiwan, Hong Kong, South Korea and the Philippines: men's and women's wearing apparel, including shirts, tops, sweaters, jackets and pants in U.S. Patent and Trademark Office Class 39. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Entry, Licensing and Restricted Merchandise Branch, Washington, D.C. 20229, in time to be received no later than 60 days from the date of publication of this notice in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Harriet Lane, Entry Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

Dated: January 28, 1983.

**A. PIAZZA**

(For Donald W. Lewis, Director,  
Entry Procedures and Penalties Division.)

[Published in the Federal Register, March 10, 1983 (48 FR 10188)]

## Recent Customs Service Decisions Unpublished in the Customs Bulletin

The following listing of recent administrative decisions issued by the U.S. Customs Service is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Customs Service Decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the U.S. Customs Service. Individuals to whom any of these decisions would be of interest should read the limitations expressed in 19 CFR 177.9(c).

A copy of any decision included in this listing, identified by its date and file number, may be obtained through use of the microfiche facilities in Customs reading rooms or if not available through those reading rooms, then it may be obtained upon written request to the Office of Regulations and Rulings, Attention: Legal Retrieval and Dissemination Branch, Room 2404, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Copies obtained from the Legal Retrieval and Dissemination Branch will be made available at a cost to the requester of \$0.10 per page. However, the Customs Service will waive this charge if the total number of pages copied is ten or less.

The microfiche referred to above contains rulings/decisions published or listed in the Customs Bulletin, many rulings predating the establishment of the microfiche system, and other rulings/decisions issued by the Office of Regulations and Rulings. This microfiche is available at a cost of \$0.15 per sheet of fiche. In addition, a keyword index fiche is available at the same cost (\$0.15) per sheet of fiche.

It is anticipated that additions to both sets of microfiche will be made quarterly. Requests for subscriptions for the microfiche should be directed to the Legal Retrieval and Dissemination Branch. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: March 7, 1983.

B. JAMES FRITZ,  
*Director, Regulations Control and  
Disclosure Law Division.*

Date	Number	Issue
12-30-82	070756	Classification: An established and uniform practice exists with respect to the tariff classification of certain foliage-type artificial flowers under item 389.61, Tariff Schedules of the United States.
02-22-83	105770	Vessels: Application of 19 U.S.C. 1433, 46 U.S.C. 251, sections 10.78(c), 101.1(h), 101.1(l) and Part 4, Customs Regulations, to the operations of a foreign-flag fishing vessel and a U.S. cargo vessel engaged in transshipping fish caught by a foreign-flag vessel on the high seas.
02-16-83	105970	Vessels: Application of 19 U.S.C. 1466 in instances addressing: (1) the dutiable status of U.S. parts installed with foreign labor; (2) mechanical failure not qualifying as an "other casualty"; (3) vessels documented to engage in the foreign or coastwise trades and (4) pursuant to section 141.1(e), Customs Regulations, state instrumentalities are not entitled to constitutional exemption from the payment of Customs duties.
02-09-83	105972	Vessels: Pursuant to 46 U.S.C. 289, 877, 883 and 46 U.S.C. 65h(b), foreign-built vessels may not carry passengers or merchandise between points within Guam but may carry passengers and merchandise between the United States mainland and Guam if properly registered.
02-15-83	106008	Vessels: Pursuant to 46 U.S.C. 251(a), a foreign-flag vessel may not tranship, in territorial waters, fish taken on board on the high seas.
02-18-83	106029	Vessels: Bona fide reporters and photographers of the press working on a story concerning the voyage of a vessel are not passengers within the meaning of 46 U.S.C. 289.
02-02-83	542820	Value: No export or United States value exists in related party transactions when export sales result in losses and United States sales are at a high profit (section 402, Tariff Act of 1930, as amended, applies).
10-07-82	542853	Value: Pursuant to 19 U.S.C. 1401a(b), prices subject to change after importation cannot form the basis of export value.

# United States Court of International Trade

One Federal Plaza

New York, N.Y. 10007

*Chief Judge*

Edward D. Re

*Judges*

Paul P. Rao  
Morgan Ford  
Frederick Landis

James L. Watson  
Bernard Newman  
Nils A. Boe

*Senior Judges*

Samuel M. Rosenstein

Herbert N. Maletz

*Clerk*

Joseph E. Lombardi

# Decisions of the United States Court of International Trade

## *Abstracts*

### *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, March 3, 1983.

The following abstracts of decisions of the U.S. Court of International Trade at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to Customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,  
*Commissioner of Customs.*

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Item No. and Rate	Item No. and Rate			
P88/53	Bee, J. February 24, 1983	Magnavox Consumer Electronic Co.	81-7-00632, etc.	Merchandise classified as combination articles, with the constructively separate clock movements being classified under item 720.18 or 715.68 and assessed at various rates	Item 685.40 5.3%; (entirely) Dutiable on basis of export value; said value is equal to sum of appraised values of tape recorders and timepiece portions thereof	Texas Instruments, Inc. v. U.S. Slip Op. 81-31 CTC 4/ 17/81), aff'd 8125/82	Los Angeles Video cassette recorders; tape recorders in which are incorporated digital clock or timers which contain solid state electronic modules; entireties	
P88/54	Maleitz, S.J. February 24, 1983	EcoBay Sportswear, Inc.	80-12-00189	Under item 807.60 at rate of duty applicable to item 382.81 or 382.33, with allowance given to cost or value of some of the fabric components, the product of U.S.; no allowance made for fabric components, the product of U.S., subjected to buttonhole and/ or pocket slit operations during assembly of imported garments	Components subjected to buttonhole and/ or pocket slit operations during the assembly process are properly classifiable under item 807.60 and entitled to duty allowance	U.S. v. Mast Industries, No. 81-18 (CCPA 12/30/81)	Miami American goods returned; articles of wearing apparel assembled abroad in part of U.S. fabricated components	
P88/55	Maleitz, S.J. February 24, 1983	F. W. Myers & Co., Inc.	77-2-00191	Item 688.05 0.3¢ per lb.	Item 688.02 Free of duty	F. W. Myers & Co. v. (C.D.'s 4685 and 4872)	F. W. Myers & Co. v. (C.D.'s 4685 and 4872)	Champlain-Rouses Point (Ogdensburg) Sponge iron powders

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
P83/56	Maletz, S.J. February 24, 1983	J. C. Penney Purchasing Corporation	82-4-40882	Item No. and Rate Item 737.95 17.5% (entirety)	Item A737.15 Free of duty under GSP (Corvette car) Item A685.60 Free of duty under GSP (transmitter)	Agreed statement of facts	New York Corvette car and handheld transmitter; products of an eligible beneficiary country
P83/57	Maletz, S.J. February 24, 1983	Lloyd's Electronics, Int'l	81-7-409310	Item 676.20 5% Item 720.16 10% + 75¢ each	Item 676.20 2% Item 676.20 5%	Agreed statement of facts	New York Solid-state digital calculators incorporating timekeeping devices with LCD displays on key chains
P83/58	Watson, J. March 1, 1983	Standard Sales, Inc.	80-8-01266	Item 389.62 25¢ per lb. + 15%	Item 735.20 10%	Standard Surplus Sales, Inc. v. U.S. Slip Op. 81-5 (CIT 1/18/81) U.S. v. Standard Surplus Sales, Inc. No. 81- 13 (CCPA 12/17/81)	Los Angeles Nylon padded shoulder straps

# Decisions of the United States Court of International Trade

## *Abstracts*

### *Abstracted Reappraisement Decisions*

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R85/241	Re, C.J. February 24, 1983	Nichimen Co., Inc.	74-6-01489, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Import Corp. v. U.S. (C.D. 4738)	New York Not stated
R85/242	Watson, J. February 24, 1983	C. Itoh & Co. (America) Inc.	286188-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Tablecloth and napkins, teacups and saucers
R85/243	Watson, J. February 24, 1983	Empire Findings Co., Inc.	R61/18919, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Thermometers and/or thermometer blanks

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
RS3/244	Watson, J., February 24, 1983	Empire Findings Co., Inc.	RS61/1370, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Thermometers and/or thermometer blanks
RS3/245	Watson, J., February 24, 1983	Globe Shipping Co., Inc.	269468-A, etc.	Export value	F.o.b. unit invoice prices less 7.5% thereof	Agreed statement of facts	New York Cotton and rayon tablecloths and napkins
RS3/246	Watson, J., February 24, 1983	Globe Shipping Co., Inc.	270449-A, etc.	Export values	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Damask tablecloth and cotton and rayon
RS3/247	Watson, J., February 24, 1983	Imported Rug Associates, Ltd.	RS65/7654	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Wool hooked rugs, etc.
RS3/248	Watson, J., February 24, 1983	International Expeditors, Inc. et al.	RS63/4351, etc.	Export values	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values, net packed	Agreed statement of facts	New York 9V batteries, or transistor transceivers, or transistor radios, and any accessories and parts
RS3/249	Watson, J., February 24, 1983	International Expeditors, Inc.	RS65/6900, etc.	Export value (merchandise covered by entries listed on schedules A and B attached to decision and judgment)	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values (schedule A merchandise) Appraised unit invoice values less 7.5% thereof, net packed (schedule B merchandise)	Agreed statement of facts	New York 9V batteries, or transistor radios, and any accessories and parts (merchandise in entries listed on schedules A and B)
RS3/250	Watson, J., February 24, 1983	J.C. Penney	RS63/6981, etc.	Export value	Appraised unit values less 7.5% thereof, net packed	Agreed statement of facts	San Francisco Tubing mate

R83/251	Watson, J. February 24, 1983	Lipmans Imports, Inc. R61/20236, etc.	Export value	F.o.b. unit invoice prices less 7.5% thereof	Agreed statement of facts New York Malleable cast iron fittings, etc.
R83/252	Watson, J. February 24, 1983	Marchbeni Idaho (America) Inc. R59/869, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts New York Transistor radios and any accessories and parts
R83/253	Watson, J. February 24, 1983	Rugby International Corp. R66/709, etc.	Export value	Appraised values less 7.5% thereof	Agreed statement of facts New York Tube mats, etc.
R83/254	Watson, J. February 24, 1983	Edward S. Sasoon, et al. R60/5897, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts New York Silk fabric and candle tuna
R83/255	Watson, J. February 24, 1983	Stone and Downer R60/22513, etc.	Export value	F.o.b. invoice unit prices shown in entry docu- ments, plus 20% of dif- ference between f.o.b. unit prices and appraised values net packed	Agreed statement of facts Boston Binoculars

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/256	Maletz, S.J. February 24, 1983	Dana Perfumes Corp. By-Gehrig Hoban & Co., Inc., et al.	R68/470, etc.	Cost of production (item Nos. 8225, 8226, 8227, 8228, 8284, 9204, 9208, 9216, US228, US264 on invoices)	Amounts for material, labor, fabrication costs and general expenses in- curred for export to U.S. as included in invoice prices, plus percentage of 69%, plus export packing (item Nos. 8225, etc.)	Agreed statement of facts New York Cane Cologne, Spray Cologne, Pullman Cologne, etc.	
R83/257	Maletz, S.J. February 24, 1983	Dana Perfumes Corp. Corporation et al.	R68/6485, etc.	Cost of production	Amounts for material, labor, fabrication costs and general expenses in- curred for export to U.S. as included in invoice prices, plus percentage of 40.56%, plus export pack- ing (item No. 9704)	Agreed statement of facts New York Cane Cologne and Spray Cane Cologne	New York Cane Cologne, Ambuh Cologne, Tabu Cologne, etc.
R83/258	Maletz, S.J. February 24, 1983	Dana Perfumes Corp.	78-6-01683, etc.	Cost of production (item Nos. 1463, 8225, 8226, 8227, 8228, 8284, 5466, 1112, 42473, 8244, US228 on invoices) Constructed value (item No. 8714, 8511, 5511, 5558, 1511, 1538, US714, US506 on invoices)	Amounts for material, labor, fabrication costs and general expenses in- curred for export to U.S. as included in invoice prices, plus profit per- centage of 28.28372%, plus export packing (item Nos. 1463, etc.)	Agreed statement of facts New York Cane Cologne, Ambuh Cologne, Tabu Cologne, etc.	

				Agreed statement of facts New York Electrical instruments and accessories
R83/259	Malet, S.J. February 24, 1983	Perkin Elmer Corporation	78-12-02104	Export value
R83/260	Malet, S.J. February 24, 1983	Perkin Elmer Corporation	78-12-02106	Export value
R83/261	Re, C.J. March 1, 1983	Marchbeni America Corp.	74-10-02848	Export value (merchandise covered by entries followed by "A" on attached schedules) United States value (merchandise covered by entries followed by "B" or "C" on attached schedules)
				Unit values found by appraising Customs official less ocean freight and marine insurance without additions for currency fluctuations (merchandise covered by entries followed by "A" on attached schedules) Appraised values less additions for currency fluctuation less 10%, or the invoiced unit values, less all non-duty charges, whichever value is higher (merchandise covered by entries followed by "B" or "C" on attached schedules)
				Appraised values shown on entry papers less additions included to reflect currency revaluation
R83/262	Re, C.J. March 1, 1983	Metasco, Inc.	78-5-01290, etc.	Export value
R83/263	Re, C.J. March 1, 1983	Mitsui & Co. (U.S.A.), Inc.	78-8-02150, etc.	Export value
				Appraised values shown on entry papers less additions included to reflect currency revaluation

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/264	Re C.J. March 1, 1983	Mitani & Co. (U.S.A.), Inc.	74-6-01437	Export value	Appraised values shown on entry papers less addition included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Cleveland; New York Not stated
R83/265	Re C.J. March 1, 1983	Mitani & Co. (U.S.A.), Inc.	77-1-00014, etc.	Export value	Appraised values shown on entry papers less addition included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	San Francisco Not stated
R83/266	Re C.J. March 1, 1983	National Silver Co.	76-11-02417	Export value	Appraised values shown on entry papers less addition included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New Bedford Not stated
R83/267	Watson, J. March 1, 1983	Hermann-Herman Inc. Herman Scarfs, Inc.	R59/16534, etc.	Export value	F.o.b. unit invoice price plus 20% of difference between f.o.b. unit prices and appraised values	Agreed statement of facts	New York Silk and rayon scarves
R83/268	Watson, J. March 1, 1983	J.C. Penny Co.	R60/10085	Export value	F.o.b. unit invoice price plus 20% of difference between f.o.b. unit prices and appraised values	Agreed statement of facts	Los Angeles Sweater
R83/269	Watson, J. March 1, 1983	Rene D. Lyon Co. Inc.	291450-A, etc.	Export value	Appraised unit values less 7.5% thereof, net packed	Agreed statement of facts	New York Artificial flowers
R83/270	Watson, J. March 2, 1983	C. Itoh & Co. (America) Inc.	R58/20374, etc.	Export value	F.o.b. unit invoice price plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Dyed woven textiles
R83/271	Watson, J. March 2, 1983	Imported Rug Associates, Ltd.	R64/4832, etc.	Export value	Appraised unit values less 7.5% thereof, net packed	Agreed statement of facts	Savannah Wool hooked rugs, etc.

R83/272	Watson, J. March 2, 1983	Louis Goldley Co., Inc.	R\$4/20408, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts New York Tiles
R83/273	Watson, J. March 2, 1983	Louis Goldley Co., Inc.	R\$6/14058, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts Tampa Ceramic tiles
R83/274	Watson, J. March 2, 1983	Marubeni Iida (America) Inc.	R\$8/7847, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts New York Dish towels, etc.
R83/275	Watson, J. March 2, 1983	Marubeni Iida (America) Inc.	R\$9/14990, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts New York Fabrics
R83/276	Watson, J. March 2, 1983	Starlight Trading, Inc.	295177-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts New York Cotton clothing
R83/277	Watson, J. March 2, 1983	Starlight Trading, Inc. et al.	R\$6/196, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit in- voice prices and ap- praised values	Agreed statement of facts New York, Cotton blouses, silk fabrics, etc.

# International Trade Commission Notices

*Investigations by the U.S. International Trade Commission*

DEPARTMENT OF THE TREASURY, March 9, 1983.

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM VON RAAB,  
*Commissioner of Customs.*

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In the Matter of  
CERTAIN MARINE HARDWARE AND }  
ACCESSORIES } Investigation No. 337-TA-136

## *Notice*

Notice is hereby given that a prehearing conference scheduled for March 14, 1983 and the hearing scheduled to commence immediately thereafter (48 Fed. Reg. 7828, February 24, 1983) are cancelled.

The Secretary shall publish this notice in the Federal Register.

Issued: March 3, 1983.

JANET D. SAXON,  
*Administrative Law Judge.*

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Investigation No. 701-TA-184 (Final)

## FROZEN CONCENTRATED ORANCE JUICE FROM BRAZIL

AGENCY: U.S. International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

EFFECTIVE DATE: March 2, 1983.

SUMMARY: On March 2, 1983, the United States Department of Commerce suspended its countervailing duty investigation involving frozen concentrated orange juice from Brazil (48 FR 8839). The basis for the suspension is an agreement by the Government of

Brazil to offset completely the amount of the net subsidy determined by Commerce to exist with respect to the subject product. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation involving frozen concentrated orange juice, provided for in item 165.35 of the Tariff Schedules of United States, from Brazil (investigation No. 701-TA-184 (Final)). The schedule for this investigation, which was included in the Commission's notice of institution (47 FR 58051, December 29, 1982), is hereby cancelled.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to section 207.40 of the Commission's Rules of Practice and Procedure (19 CFR § 207.40).

By order of the Commission.

Issued: March 2, 1983.

KENNETH R. MASON,  
*Secretary.*

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Investigation No. 731-TA-92 (Final)

**STAINLESS STEEL SHEET AND STRIP FROM THE FEDERAL REPUBLIC OF GERMANY**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Rescheduling of the prehearing conference to be held in connection with the subject investigation.

**EFFECTIVE DATE:** February 28, 1983.

Notice is hereby given that the prehearing conference originally scheduled for April 20, 1982 in connection with the subject investigation (48 FR 7825) is rescheduled to April 18, 1983 at 10:00 a.m. in room 117 of the U.S. International Trade Commission Building.

Issued: February 28, 1983.

KENNETH R. MASON,  
*Secretary.*

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Investigation No. 731-TA-95 (Final)

**STAINLESS STEEL SHEET AND STRIP FROM FRANCE**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Rescheduling of the prehearing conference to be held in connection with the subject investigation.

**EFFECTIVE DATE:** February 28, 1983.

Notice is hereby given that the prehearing conference originally scheduled for April 20, 1982 in connection with the subject investigation (48 FR 7824) is rescheduled to April 18, 1983 at 10:00 a.m. in room 117 of the U.S. International Trade Commission Building.

Issued: February 28, 1983.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN HAND-OPERATED, GAS-  
OPERATED, WELDING,  
CUTTING, AND HEATING  
EQUIPMENT AND COMPONENT  
PARTS THEREOF } Investigation No. 337-TA-132

*Notice of Commission Decision Not To Review Initial  
Determination*

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 22) amending the notice of investigation in the above-referenced investigation.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in sections 335 and 337 of the Tariff Act of 1930 (19 U.S.C. §§ 1335, 1337) and in sections 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR. §§ 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: On February 10, 1983, the presiding officer issued an initial determination granting complainant Victor Equipment Co.'s motion to amend the notice of investigation in the above-referenced investigation. Under section 210.54(b) of the Commission's rules the deadline for filing petitions for review expired on February 22, 1983. No petitions were filed within the time specified in the Commission's rules.

Copies of the presiding officer's initial determination, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0375.

By order of the Commission.

Issued: February 25, 1983.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN AUTOMATIC TURRET  
REWINDERS

} Investigation No. 337-TA-138

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: February 25, 1983.

DONALD K. DUVALL,  
*Chief Administrative Law Judge.*

Investigation 701-TA-179 through 181 (Final)

Hot-Rolled STAINLESS STEEL BAR, COLD-FORMED STAINLESS STEEL  
BAR, AND STAINLESS STEEL WIRE ROD FROM BRAZIL

AGENCY: U.S. International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

EFFECTIVE DATE: February 7, 1983.

SUMMARY: On January 27, 1983, the United States Department of Commerce suspended its countervailing duty investigation on hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod (certain stainless steel products) from Brazil (48 FR 4703, February 2, 1983). The basis for the suspension is an agreement by the government of Brazil to offset completely the amount of the net subsidy with an export tax applicable to the subject merchandise. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation involving the subject certain stainless steel products, provided for in items 606.90, 607.26, and 607.43 of the Tariff Schedules of the United States, from Brazil (investigation No. 701-TA-179 through 181 (Final)), and cancellation of the public hearing scheduled for February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter (202-523-0300), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to section 207.40 of the Commission's Rules of Practice and Procedure (19 CFR § 207.40).

By order of the Commission.

Issued: February 25, 1983.

KENNETH R. MASON,  
*Secretary.*

Investigations Nos. 731-TA-125 and 126 (Preliminary)

POTASSIUM PERMANGANATE FROM THE PEOPLE'S REPUBLIC OF  
CHINA AND SPAIN

AGENCY: U.S. International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: February 22, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China and Spain of potassium permanganate, provided for in item 420.28 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Carpenter, Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0399.

SUPPLEMENTARY INFORMATION:

*Background.*—These investigations are being instituted in response to a petition filed on February 22, 1983, on behalf of the Carus Chemical Co., a U.S. producer of potassium permanganate. The Commission must make its determination in the investigations within 45 days after the date of the filing of the petition, or by April 8, 1983 (19 CFR § 207.17).

*Participation.*—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

*Service of documents.*—The Secretary will compile a service list from the entries of appearance filed in the investigations. Any

party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR § 201.8, as amended by 47 FR 13791, Apr. 1, 1982), serve a copy of the nonconfidential version of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR § 201.16(b)), as amended by 47 FR 33682, Aug. 4, 1982.

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certification of service will not be accepted by the Secretary.

*Written submissions.*—Any person may submit to the Commission on or before March 23, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR § 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR § 201.8, as amended by 47 FR 13791, Apr. 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

*Conference.*—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on March 21, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. Robert Carpenter (202-523-0399), not later than March 17, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

*Public inspection.*—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 13791, Apr. 1, 1982, and 47 FR 33682, Aug. 4, 1982). Further infor-

mation concerning the conduct of the conference will be provided by Mr. Carpenter.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: February 25, 1983.

KENNETH R. MASON,  
*Secretary.*

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Investigations Nos. 701-TA-195 and 196 (Final)

STAINLESS STEEL SHEET, STRIP, AND PLATE FROM THE UNITED KINGDOM

AGENCY: U.S. International Trade Commission.

ACTION: Institution of final countervailing duty investigations and scheduling of a hearing to be held in connection with these investigations.

EFFECTIVE DATE: February 24, 1983.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that the Government of the United Kingdom is providing directly or indirectly, subsidies to the manufacturers, producers or exporters in the United Kingdom of certain steel products within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. § 1671), the United States International Trade Commission hereby gives notice of the institution of the following investigations under section 705(b) of the Act (19 U.S.C. § 1671(b)) to determine whether an industry in the United States is materially injured or is threatened with material injury or the establishment of an industry in the United States is materially retarded, by reason of allegedly subsidized imports from the United Kingdom of the specified merchandise:

Stainless steel sheet and strip, provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated (TSUSA) (investigation No. 701-TA-195 (Final)),

Stainless steel plate, provided for in TSUSA items 607.7605 and 607.9005 (investigation No. 701-TA-196 (Final)).

Unless the investigations are extended, the Department of Commerce will make its final subsidy determinations on or before April 20, 1983, and the Commission will make its final injury determinations June 9, 1983 (19 CFR § 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission.

**SUPPLEMENTARY INFORMATION:**

**Background.**—On November 22, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly subsidized imports of stainless steel strip, sheet, and plate from the United Kingdom. The preliminary investigations were instituted in response to a petition filed on October 7, 1982, by members of the Tool & Stainless Steel Industry Committee (since renamed: Specialty Steel Industry of the United States), and the United Steelworkers of America.

**Participation in the investigations.**—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR § 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR § 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

**Staff report.**—A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on April 19, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR § 207.21).

**Hearing.**—The Commission will hold a joint hearing in connection with these investigations and Inv. Nos. 731-TA-92 (Final), Stainless Steel Sheet and Strip from the Federal Republic of Germany, and 731-TA-95 (Final), Stainless Steel Sheet and Strip from France, beginning at 10:00 a.m. on May 4, 1983, at the U.S. International Trade Commission Building, 701 E Street NW, Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 12, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on April 18, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 29, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR § 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR § 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR § 207.24), and must be submitted not later than the close of business on May 12, 1983.

*Written submissions.*—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before May 12, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR § 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR § 207.20).

By order of the Commission.

Issued: February 25, 1983.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN MARINE HARDWARE AND } Investigation No. 337-TA-136  
ACCESSORIES

*Notice of Change of the Commission Investigative Attorney*

Notice is hereby given that as of this date, Arthur Wineburg, Esq. of the Unfair Import Investigations Division will be the Commission Investigative Attorney in the above-cited investigation instead of Oreste Russ Pirfo, Esq.

The Secretary is requested to publish this notice in the Federal Register.

Dated: February 24, 1983.

DAVID I. WILSON,  
*Chief, Unfair Import Investigations Division.*

In the Matter of  
CERTAIN AUTOMATIC TURRET } Investigation No. 337-TA-138  
REWINDERS

*Notice of Investigation*

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 24, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), on behalf of Compensating Tension Controls, Inc., 11 York Avenue, West Caldwell, New Jersey 07006. The complaint alleges unfair methods of competition and unfair acts in the importation of certain automatic turret rewinders into the United States, or in their sale, by reason of alleged infringement of claims 1, 2, 3, and 6 of U.S. Letters Patent 3,930,620. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order and a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR § 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on February 17, 1983, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation is instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain automatic turret rewinders into the United States, or in their sale, by reason of alleged infringement of claims 1, 2, 3, and 6 of U.S. Letters Patent 3,930,620, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Compensating Tension Controls, Inc.  
P.O. Box 1137  
11 York Avenue  
West Caldwell, New Jersey 07006

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

IMC America, Inc.  
128 East King Street  
York, Pennsylvania 17403

IMC Trading B.V.  
Hogeweyselaan 73  
1380 Ab  
Weesp, Netherlands

Arabin GmbH  
Biengartenweg 19  
6306 Langoons-Cleeberg  
Federal Republic of Germany

(c) Samuel Bailey, Jr., Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR § 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules (19 CFR § 201.15(d) and 19 CFR § 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., room 156, Washington, D.C. 20436, telephone 202-523-0471.

**FOR FURTHER INFORMATION CONTACT:** Samuel Bailey Jr., Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-1273.

By order of the Commission.

Issued: February 23, 1983.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN CAULKING GUNS

} Investigation No. 337-TA-139

*Order*

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: February 23, 1983.

DONALD K. DUVALL,  
*Chief Administrative Law Judge.*

In the Matter of  
CERTAIN HAND-OPERATED, GAS-  
OPERATED, WELDING,  
CUTTING, AND HEATING  
EQUIPMENT AND COMPONENT  
PARTS THEREOF

} Investigation No. 337-TA-132

*Notice of Extension of Time for Commission Decision on Whether  
To Review Initial Determination*

AGENCY: U.S. International Trade Commission.

ACTION: Extension of time for Commission decision on whether to review initial determination in the above-referenced investigation.

**SUPPLEMENTARY INFORMATION:** On February 7, 1983, the presiding officer issued an initial determination denying complainant Victor Equipment Co.'s request for temporary relief in the above-referenced investigation. On February 18, 1983, complainant Victor Equipment Co. and the Commission investigative attorney filed petitions for review of the initial determination.

Pursuant to sections 201.14(b) and 210.53(b)(2) of the Commission's Rules of Practice and Procedure, the Commission has extended the time for a Commission decision on whether to grant or deny review by fifteen (15) days. See 19 CFR § 201.14(b); 47 Fed. Reg. 25137 (June 10, 1982), to be codified at 19 CFR § 210.54(b). The new deadline for Commission action is March 9, 1983.

Copies of the presiding officer's initial determination, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

**FOR FURTHER INFORMATION CONTACT:** Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0375.

By order of the Commission.

Issued: February 22, 1983.

KENNETH R. MASON,  
*Secretary.*

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Investigation No. 731-TA-102 (Final)

**CERTAIN RADIO PAGING AND ALERTING RECEIVING DEVICES**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

**EFFECTIVE DATE:** February 1, 1983.

**SUMMARY:** As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Japan of certain radio paging and alerting receiving devices, provided for in items 685.24 and 685.70 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. § 1673), the United States International Trade Commission hereby gives notice of the institution of Investigation No. 731-TA-102 (Final) under section 735(b) of the act (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the

establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Department of Commerce will make its final dumping determination in the case on or before June 11, 1983, and within 45 days of the Department of Commerce's determination the Commission will notify the Department of Commerce of its final injury determination (19 CFR § 207.25).

**FOR FURTHER INFORMATION CONTACT:** Bill Schechter, Investigator, Office of Investigations, U.S. International Trade Commission, telephone 202-523-0300.

**SUPPLEMENTARY INFORMATION:**

*Background.*—On October 4, 1982, the Commission notified the Department of Commerce that, on the basis of the information developed during the course of its preliminary investigation, there is a reasonable indication that an industry in the United States is threatened with material injury by reason of alleged LTFV imports of certain radio paging and alerting devices from Japan. The preliminary investigation was instituted in response to a petition filed on August 19, 1982, by counsel for Motorola, Inc., the largest domestic producer of radio paging and alerting receiving devices.

*Participation in the investigation.*—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR § 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR § 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

*Staff report.*—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on June 10, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR § 207.21).

*Hearing.*—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on June 21, 1983, at the U.S. International Trade Commission Building, 701 E Street

NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 3, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on June 14, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 16, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR § 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR § 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Post hearing briefs must conform with the provisions of section 207.24 (19 CFR § 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on March 8, 1983.

*Written submission.*—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 28, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR § 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended by 47 F.R. 6190, Feb. 10, 1982, and 47 F.R. 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 F.R. 6188, Feb. 10, 1982; 47 F.R. 13791, Apr. 1, 1982; and 47 F.R. 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR § 207.20, as amended by 47 F.R. 6190, Feb. 10, 1982).

By order of the Commission.

Issued: February 18, 1982.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN HEAVY-DUTY STAPLE GUN TACKERS } Investigation No. 337-TA-137

*Notice of Investigation*

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 7, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), on behalf of Arrow Fastener Co., Inc., 271 Mayhill St., Saddle Brook, N.J. 07662. The complaint alleges unfair methods of competition and unfair acts in the importation of certain heavy-duty staple gun tackers into the United States, or in their sale, by reason of alleged (1) infringement of Arrow's common law trademark under § 43(a) of the Lanham Act, in the heavy-duty staple gun tacker, (2) passing off, and (3) infringement of Arrow's common law trademark under § 43(a) of the Lanham Act, in the pictorial of the heavy-duty staple gun tacker. The complaint further alleges that the effect or tendency of the 'unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue both a permanent exclusion order and a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR § 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on February 2, 1983, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain heavy-duty staple gun tackers into the United States, or in their sale, by reason of alleged (1) infringement of

Arrow's common law trademark under § 43(a) of the Lanham Act, in the heavy-duty staple gun tacker, (2) passing off, and (3) infringement of Arrow's common law trademark under § 43(a) of the Lanham Act, in the pictorial of the heavy-duty staple gun tacker. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Arrow Fastener Co., Inc.  
271 Mayhill Street  
Saddle Brook, N.J. 07662

(b) The following respondents are alleged to be in violation of section 337, and are the parties upon which the complaint is to be served. The first respondents listed below are alleged to be committing all three of the unfair methods of competition and unfair acts listed in paragraph (1) and the remaining respondents are alleged to be committing the first two of the unfair methods of competition and unfair acts listed in paragraph (1):

Test-Rite Products Corp.  
1144 Clifton Ave.  
Clifton, N.J. 07013

Test-Rite Int'l (Taiwan) Ltd.  
293 Chung Hsiao East Rd., 2nd Floor  
Sec. 4, Taipei, Taiwan

Test-Rite Automotive Ltd.  
Room 1504, Star House  
3 Salisbury Rd., T.S.T.  
Kowloon, Hong Kong

Taiwan Royal United Int'l.  
21-2 Ching-Cheng St.  
Taipei, Taiwan

Waverly Screw & Hardware, Inc.  
d.b.a Lustre Line Products  
Richmond & Norris Streets  
Philadelphia, Pa. 19125

Chen Dah Machinery Ltd.  
239 Hoping St.  
Taichung, Taiwan

Alltrade, Inc.  
1728 Greenwood Ave.  
Montebello, Calif. 90640

**Central Hardware Co.**  
111 Boulder Industrial  
Bridgeton, Mo. 63044

**The Handyman of California**  
d.b.a. **The Handyman Hardware**  
6666 Convoy Court  
San Diego, Calif. 9211

**Handyman Supply, Inc.**  
d.b.a. **The Handyman Hardware**  
4417 Mahoning Ave. NW.  
Warren, Ohio 44483

**Meijer Thrifty Acres**  
2727 Walker NW.  
Grand Rapids, Mich. 49504

**Dart Drug Corp.**  
3301 Pennsylvania Dr.  
Landover, Md. 20785

**Menards, Inc.**  
d.b.a. **Menards Cashway Lumber**  
4601 First Ave. SE.  
Cedar Rapids, Iowa 52403

**Aco, Inc.**  
23333 Commerce Dr.  
Farmington Hills, Mich. 48024

**Venture Stores, Inc.**  
615 N.W. Plaza, Lower Level  
St. Ann, Mo. 63074

**L.G. Distributors, Inc.**  
d.b.a. **L.G. Cook Distributors**  
525 Ann St. NW.  
Grand Rapids, Mich. 49504

**Fred Meyer, Inc.**  
3800 S. 22nd  
Portland, Oreg.

**Wal-Mart Stores, Inc.**  
702 SW. Eighth St.  
Bentonville, Ark. 72712

**Ranch Wholesale Supply, Inc.**  
d/b/a **Longmont Big R**  
1515 Main Street  
Longmont, Colo. 80501

**Stop & Shop Companies, Inc.**  
393 D Street  
Boston, Mass. 02110

**Western Auto Supply, Inc.**  
2107 Grand Ave.  
Kansas City, Mo. 64108

Pep Boys-Manny, Moe & Jack  
32nd & Allegheny  
Philadelphia, Pa. 19132

Tractor Supply Co.  
915 Murfreesboro Rd.  
Nashville, Tenn. 37217

- (c) Robert S. Budoff, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., room 124, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and
- (3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR § 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., room 156, Washington, D.C. 20436, telephone 202-523-0471.

**FOR FURTHER INFORMATION CONTACT:** Robert S. Budoff, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-0113.

By order of the Commission.

Issued: February 17, 1983.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN CAULKING GUNS                      } Investigation No. 337-TA-139

*Notice of Investigation*

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 26, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), on behalf of Peter J. Chang, 9645 Gerwig Lane, P.O. Box 8, Columbia, Maryland 21046. A supplement to the complaint was filed on February 9, 1983. The complaint as supplemented (hereinafter "the complaint") alleges unfair methods of competition and unfair acts in the importation of certain caulking guns into the United States, or in their sale, by reason of alleged (1) direct infringement of claims 1-5 of U.S. Letters Patent 4,081,112; (2) passing off; (3) false advertising; and (4) misrepresentation of source and origin including failure to mark country of origin. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to prevent the establishment of an efficiently and economically operated domestic industry in the United States.

The complainant requests that the Commission institute an investigation and, after a temporary relief hearing on the non-patent allegations, issue both a temporary exclusion order, prohibiting importation of said articles into the United States except under bond, and a temporary cease and desist order. After a full investigation, complainant requests that the Commission issue both a permanent exclusion order and a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission on February 17, 1983, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain caulking guns into the United States, or in their sale, by reason of alleged (1) direct infringement of the claims of U.S. Letters Patent 4,081,112; (2) passing off; (3) false advertising; and (4) violation of section 43(a) of the Lanham Act by reason of false designation of origin and source, the effect or tendency of which is to prevent the establishment of an efficiently and economically operated domestic industry in the United States.

(2) An investigation be made as to whether there is reason to believe that there is a violation of subsection (a) of section 337 with regard to the non-patent allegations of paragraph (1) above.

(3) For purposes of the investigation so constituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Peter J. Chang  
9645 Gerwig Lane  
P.O. Box 8  
Columbia, Maryland 21046

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Thumb Enterprise Co., Ltd.  
6th Floor, Taishin Bldg.  
No. 30, Sec. 2, Chi-Nan Rd.  
Taipei, Taiwan

Winmax, Inc.  
P.O. Box 53-422  
Taipei, Taiwan

Fuerza International Co., Ltd.  
141-1 Hoping Rd.  
Luchou Hsiang  
Taipei-Hsien, Taiwan

Taiwan Seven Rings Ind. Co., Ltd.  
P.O. Box 30-422  
Taipei, Taiwan

Viva International Corp.  
11-4th Floor  
NCR Bldg., P.O. Box 13-361  
955 Tun Hwa Rd.  
Taipei, Taiwan

C&B Brothers Co., Ltd.  
P.O. Box 84-363  
Taipei, Taiwan

D&W Industrial Co., Ltd.  
P.O. Box 27-93  
Taichung, Taiwan

Kukje Corp.  
CPO Box 747  
Seoul, Korea

Gray Marketing Group, Ltd.  
4500 Cedros Avenue  
P.O. Box 5216  
Sherman Oaks, California 91413

AZCO, Inc.  
2530 South Broadway  
Los Angeles, California 90007

The Mega Group, Inc.  
6001 Northwest 153rd Street  
Miami Lakes, Florida 33014

SAV-ON-DRUGS, Inc.  
1500 S. Anaheim Boulevard  
P.O. Box 17  
Anaheim, California 92805

Handy Dan  
7909 Fredericksburg Rd.  
San Antonio, Texas 78229

Lowe's Company, Inc.  
P.O. Box 111  
North Wilsboro  
North Carolina 28656

Chil Sung Ind. Co.  
14-7 Dong Ja Dong  
CPO Box 2772  
Yongsanku, Seoul, Korea

Buseong Industrial Co., Ltd.  
247-7 Sanok-Dong  
Buk-Ku  
Incheon, Korea

Donald Gray  
4500 Cedros Avenue  
P.O. Box 5216  
Sherman Oaks, California 91413

ARTCO Distributors, Inc.  
111 W. Robinson Street  
Orlando, Florida 32802

DMZ Offshore Services  
7600 N.W. 69th Street  
Miami, Florida 33166

Handy Dan Home Improvement Center, Inc.  
6915 E. Slauson Avenue  
Los Angeles, California 90040

Great American Marketing  
17537 Devonshire Street  
North Ridge, California 91325

Macklanburg-Duncan Company  
4041 N. Santa Fe  
P.O. Box 25188  
Oklahoma City, Oklahoma 73125

(c) Jeffrey S. Neeley, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW.,

Room 125, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(4) For the investigation so instituted, Donald K. Duval, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer. Pursuant to section 210.30(c) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.30(c)), discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey S. Neeley, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-0115.

By order of the Commission.

Issued: February 17, 1983.

KENNETH R. MASON,  
*Secretary.*

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Investigation No. 731-TA-124 (Preliminary)

CERTAIN FRESH POTATOES FROM CANADA

AGENCY: United States International Trade Commission.

**ACTION:** Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

**EFFECTIVE DATE:** February 9, 1983.

**SUMMARY:** The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of fresh or chilled round white potatoes, provided for in items 137.20, 137.21, 137.25, or 137.28 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Deyman, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0481.

**SUPPLEMENTARY INFORMATION:**

*Background.*—This investigation is being instituted in response to a petition filed on February 9, 1983, on behalf of the Maine Potato Council, a trade association of Maine potato producers. The Commission must make its determination in the investigation within 45 days after the date of the filing of the petition, or by March 28, 1983 (19 CFR § 207.17).

*Participation.*—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

*Service of documents.*—The Secretary will compile a service list from the entries of appearance filed in the investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR § 201.8, as amended by 47 FR 13791, Apr. 1, 1982), serve a copy of the nonconfidential version of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR § 201.16(b)), as amended by 47 FR 33682, Aug. 4, 1982.

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document.

Documents not accompanied by a certificate of service will not be accepted by the Secretary.

*Written submissions.*—Any person may submit to the Commission on or before March 9, 1983, a written statement of information pertinent to the subject matter of this investigation (19 CFR § 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR § 201.8, as amended by 47 FR 13791, Apr. 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

*Conference.*—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on March 7, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. George Deyman (202-523-0481), not later than March 3, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

*Public inspection.*—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 13791, Apr. 1, 1982, and 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Deyman.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: February 17, 1983.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN MARINE HARDWARE AND }  
ACCESSORIES } Investigation No. 337-TA-136

*Notice of Prehearing Conference and Hearing*

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on March 14, 1983 in Room 201, Waterfront Center, 1010 Wisconsin Avenue NW., Washington, D.C., and the hearing on temporary relief will commence immediately thereafter.

The purpose of the prehearing conference is to review the trial memoranda submitted by the parties, to stipulate exhibits into the record, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the Federal Register.

Issued: February 17, 1983.

JANET D. SAXON,  
*Administrative Law Judge.*

In the Matter of  
CERTAIN HEAVY-DUTY STAPLE }  
GUN TACKERS } Investigation No. 337-TA-137

Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: February 16, 1983.

DONALD K. DUVAL,  
*Chief Administrative Law Judge.*

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